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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES IN THE DISTRICT COURT.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

JAMES D. HODGSON, Secretary of Labor, United States Department of Labor,

Plaintiff,

v.

CORNING GLASS WORKS, a Corporation,

Defendant.

Civil Action No. 69-396.

Date *Docket Entries*

1969

Oct. 2 1- COMPLAINT

Oct. 2 2- SUMMONS — issued and together with copy of Complaint handed to U. S. Marshal for service.

Oct. 2 J.S. 5

Oct. 17 SUMMONS — returned served 10/16/69, together with copy of Complaint. (MF&E $24.36)

Oct. 21 3- PRAECIPE — to enter the appearance of Robert F. Cox, Esquire and of John G. Wayman, Esquire, as attorneys for Corning Glass Works, Defendant, and

LETTER — as certificate of service attached thereto.

Docket Entries in the District Court.

Date

1969

Nov. 6 4- ANSWER — of Defendant Corning Glass Works to Complaint, and

Nov. 6 5- CERTIFICATE — of service thereof.

Nov. 6 6- INTERROGATORIES — of Defendant, Set No. 1.

Nov. 6 7- CERTIFICATE — of service thereof.

Nov. 20 8- MOTION AND ORDER — extending time within which plaintiff may answer interrogatories to 12-22-69. (N)

Dec. 18 9- ANSWERS — of plaintiff to defendant's interrogatories. Set No. 1., and

Dec. 18 CERTIFICATE — of service thereof.

Dec. 18 10- INTERROGATORIES — propounded plaintiff to defendant, and

Dec. 18 CERTIFICATE — of service thereof.

1970

Jan. 13 11- MOTION AND ORDER — extending time for defendant to answer interrogatories, and

Jan. 13 CERTIFICATE — of service thereof. (N)

Mar. 16 12- STIPULATION & ORDER — that the Defendant may have until April 15, 1970 within which to answer or otherwise plead to Plaintiff's Interrogatories to Defendant, First Set.

Docket Entries in the District Court.

Date

1970

Apr. 17 13- ANSWERS — of defendant to plaintiff's interrogatories, first set. (In addition to the answers and the exhibits, up to the letter H under one backer, there are other large book type exhibits I, J, K-1 and K-2 which are separate but are in conjunction with the answers)

May 12 14- INTERROGATORIES — of plaintiff to defendant, Second Set, and

May 12 CERTIFICATE — of service thereof.

June 8 15- ANSWERS — of defendant to interrogatories, second and

June 8 STATEMENT — of service thereof.

Nov. 20 16- PRE-TRIAL ORDER — of Judge Muir.

Dec. 21 17- MINUTE SHEET — of Clerk *re* pre-trial conference. General discussion. Motion to produce to be filed by government by Jan. 15, 1971. Counsel to be given, if possible, 30 days notice of final pre-trial conference. Pre-trial status conference set for Monday, March 29, 1971, at 1:30 P. M. at Williamsport.

Dec. 22 18- ORDER — of Court; Jurisdiction is conferred on this Court by 29 U.S.C. 201-219.

Plaintiff shall file a Motion to Produce by Jan. 15, 1971.

Docket Entries in the District Court.

Date

1970

A second, but not final, pre-trial conference shall be held in this matter on Monday, March 29, 1971 at 1:30 P.M. in Williamsport.

Thirty days notice of the final pre-trial conference shall be given to counsel for both parties in this matter. (Muir)

Dec. 22 Copies mailed to counsel of record.

Dec. 24 19- MOTION — for order to substitute party plaintiff, and

Dec. 24 ORDER — of Court, substituting James D. Hodgson, Secretary of Labor, as party plaintiff.

Dec. 28 20- REQUEST — of plaintiff to produce and permit inspection and copying of documents.

1971

Jan. 20 21- MOTION — of Defendant to bring in additional defendants.

March 8 22- NOTICE — of taking depositions, and REQUEST — of plaintiff to produce and permit inspection and copying, and

CERTIFICATE — of service thereof.

March 8 23- LETTER — of Clerk to counsel of record, that the pre-trial conference set for Monday, March 29, 1971, at 1:30 P. M. is continued to Thursday, April 8, 1971 at 1:30 P. M. at Williamsport.

Date

1971

At that time, the Court will also hear argument on Motion of Defendant to bring in additional defendants. Defendant's Brief shall be due 10 days before argument and plaintiff's brief shall be due 3 days before argument.

Mar. 29 24- BRIEF — of defendant in support of its motion to bring in additional defendants.

Apr. 6 25- MEMORANDUM — of plaintiff in opposition to defendant's motion to bring in additional defendants.

Apr. 8 26- MINUTE SHEET — of Clerk *re* argument on motion of defendant to being additional defendants; also status report on case. Mr. Zimmerman argues Motion to Court. Mrs. Cappello argues Motion on behalf of Dept. of Labor.

Motion under advisement.

Mr. Zimmerman to file additional Motion to Suppress Evidence within two weeks. Defendant's brief on motion due May 5, 1971. Government brief on Motion due May 15, 1971. Motion to be decided on briefs.

Status Report Conference Date: Tuesday, June 1, 1971, 1:30 P.M. at Williamsport, Pa.

Apr. 13 27- ORDER — of Court, that the motion of defendant to bring additional defendants is denied. (Muir)

Docket Entries in the District Court.

Date

1971

Apr. 13 Copies to all counsel, mailed from Williamsport

Apr. 27 28- ORDER — of Court; paragraph 4.5 of the pre-trial Order dated Nov. 20, 1970, is hereby deleted. (Muir)

Apr. 27 Copy to counsel of record, from Williamsport Office.

May 21 29- PLAINTIFF'S OPPOSITION — to defendant's Motion for Protective Order

June 1 30- MINUTE SHEET — of Clerk, *re* status report and argument on motion for a protective order. Motion argued and taken under advisement. Final pre-trial 10-5-71 at 2:00 P.M. at Lewisburg, Pa. Non-jury trial Oct. 18, 1971 at 10:00 A.M. at Lewisburg, Pa. 3 day trial. (M)

May 7 31- DEFENDANT'S MOTION — for protective order.

June 3 32- ORDER — denying motion for protective order. (M) Copies mailed counsel of record.

June 3 33- FINAL PRE-TRIAL ORDER — Same information as contained in Document 30 above. (M)

June 3 Copies of order mailed counsel of record

June 7 34- LETTER — from Williamsport Office to All Counsel of Record and receipt thereon acknowledging Order dated June 3, 1971.

Docket Entries in the District Court.

Date

1971

June 11 35- NOTICE — of taking depositions, and

June 11 REQUEST — to produce and permit inspection and Copying, and

June 11 CERTIFICATE — of service thereof.

June 14 36- PLAINTIFF'S REQUESTS — for admissions and third set of interrogatories.

Aug. 3 37- DEFENDANT'S ANSWERS — to plaintiff's requests for admissions and third set of interrogatories.

Aug. 10 38- PLAINTIFF'S REQUESTS — to produce documents for inspection and copying.

Aug. 10 39- PLAINTIFF'S — second request for admissions and fourth set of interrogatories.

Sept. 20 40- NOTICE — of taking depositions and request to produce and permit inspection and copying and

Sept. 20 CERTIFICATE — of service thereof.

Sept. 23 41- NOTICE — of Plaintiff to take depositions and

CERTIFICATE — of service thereof.

Sept. 24 42- ANSWERS — of defendant to plaintiff's second request for admissions and fourth set interrogatories. (Exhibit M-1 to Interrogatory 100, and Exhibit I-A to Interrogatory 101) and

Sept. 24 CERTIFICATE — of service thereof.

Docket Entries in the District Court.

Date

1971

Oct. 5 43- DEPOSITIONS — of Perry Seamans, Leo Shoger and Richard Marks.

Oct. 4 44- DEPOSITION — of Seth McKibben.

Oct. 5 45- 5.1 STIPULATION — of facts, filed by plaintiff.

Oct. 5 46- 5.2 EXPERT WITNESSES QUALIFICATIONS — filed by plaintiff.

Oct. 5 47- SCHEDULE — of plaintiff's exhibits.

Oct. 5 48- LIST — of prospective witnesses who may be called by plaintiff.

Oct. 5 49- CONTESTED ISSUES OF FACT — filed by plaintiff.

Oct. 5 50- CONTESTED ISSUES OF LAW — filed by plaintiff.

Oct. 5 51- AGREED STATEMENT — of contested issues of law.

Oct. 5 52- STATEMENT — of special damages.

Oct. 5 53- LIST — of depositions plaintiffs will offer in evidence.

Oct. 5 54- REQUEST — of plaintiffs for findings.

Oct. 5 55- REQUEST — of plaintiffs for conclusions of law.

Oct. 5 56- TRIAL BRIEF — of plaintiffs.

Docket Entries in the District Court.

Date

1971

Oct. 5 57- OBJECTIONS — by defendant to certain stipulations of fact.

Oct. 5 58- STIPULATION — of facts not contested but subject to rebuttal.

Oct. 5 59- LIST OF EXHIBITS

Oct. 5 60- LIST — of potential witnesses — defense.

Oct. 5 61- STIPULATION — of facts which are contested.

Oct. 5 62- STIPULATION — of contested issues of law.

Oct. 5 63- OBJECTIONS — of defendant to admissions into evidence of plaintiffs' interrogatories, requests for admissions and answers thereto.

Oct. 5 64- FINDINGS OF FACT — and Conclusions of Law of Corning Glass Works.

Oct. 5 65- PRE-TRIAL MEMORANDUM — of defendants.

Oct. 5 66- DECISION AND ORDER — *re* Corning Glass Works, filed Aug. 3, 1971, in the Western Dist. of N. Y.

Oct. 5 67- BRIEF — of Corning Glass Works in the Western Dist. of N.Y.

Oct. 5 68- OPINION (COPY) — in the U. S. Court of Appeals for the Fifth Circuit *re* Hodgson v. American Bank of Commerce.

Docket Entries in the District Court.

Date

1971

Oct. 13 69- BRIEF — of Corning Glass Works in support of both general and specific objections by defendant to certain proposed stipulations of fact and to admissions into evidence of plaintiff's interrogatories, requests for admissions, depositions, and the answers thereto.

Oct. 14 70- EXHIBITS — of plaintiffs to depositions — (A to S as to Seamans, Shoger and Marks)— T as to McKibbon.

Oct. 15 71- MOTION — of Defendant to quash subpoena for production of documents.

Oct. 18 72- MINUTE SHEET — of Clerk, *re* first day of non-jury trial. (M)

Oct. 19 73- MINUTE SHEET — of Clerk, *re* second day of non-jury trial. (M)

Oct. 20 74- MINUTE SHEET — of Clerk, *re* third day of non-jury trial. (M)

Oct. 14 75- QUALIFICATIONS — of Defendant's potential expert witnesses.

Oct. 14 76- PRE-TRIAL MEMO — of legal authority on behalf of defendant.

Oct. 14 77- STIPULATION — of Defendant of facts not contested but subject to rebuttal.

Oct. 15 78- MOTION — of Defendant to quash subpoena for production of documents.

Docket Entries in the District Court.

Date

1971

Oct. 18 79- REVISED REQUESTED CONCLUSIONS — of Law of Plaintiff and

CERTIFICATE — of service thereof.

Oct. 18 80- STATEMENT — of Plaintiff of evidenciary questions which may arise.

Oct. 18 81- RESPONSES — of Plaintiff to defendant's objections to admission into evidence of plaintiff's interrogatories, requests for admissions, deposition and the answers thereto.

Oct. 18 82- REVISED SCHEDULE — of Plaintiff's exhibits.

Oct. 19 83- WAIVER — of signature of defendant, in accordance with F.R.C.P. Rule 30(e).

Oct. 21 84- EXHIBIT LIST — of Plaintiff.

Oct. 21 85- MINUTE SHEET 4th day — of Clerk *re* non-jury trial. Closing argument.
Under Advisement. (M)

Oct. 21 86- EXHIBIT LIST — of Clerk.

Oct. 14 87- BRIEF — of Defendant in support of both general and specific objections by defendant to certain stipulations of fact and to admission into evidence of plaintiff's interrogatories, request for admission of depositions and the answers, thereto.

Nov. 17 88- TRANSCRIPT VOLUME 1 — of trial proceedings held 10-18-71.

Docket Entries in the District Court.

Date

1971

Nov. 17 89- TRANSCRIPT VOLUME 2 — of trial proceedings held 10-19-71.

Nov. 17 90- TRANSCRIPT VOLUME 4 — of trial proceedings held 10-21-71.

Nov. 22 91- TRANSCRIPT VOLUME 3 — of trial proceedings held 10-20-71.

Dec. 13 92- STIPULATIONS — of Fact to which Defendant either makes Objection or Withdrawn a Prior Objection.

Dec. 13 93- OBJECTIONS — of Defendant to Plaintiff's Exhibits.

1972

Jan. 3 94- POST-TRIAL BRIEF — of Defendant.

Jan. 3 95- REVISED REQUESTS — of Defendant for findings of fact and conclusions of law.

Jan. 3 96- POST-TRIAL PROPOSED FINDINGS OF FACT — and Conclusions of Law filed by Plaintiff.

Jan. 3 97- STIPULATION — of counsel of facts agreed to on Oct. 21, 1971

Jan. 3 98- POST-TRIAL BRIEF — of Plaintiff.

Jan. 6 99- APPENDIX TO POST-TRIAL BRIEF — of Plaintiff.

Dec. 29-1971- 100- CERTIFICATE — of service of Isabelle R. Cappello, Esq. counsel for Plaintiff. Copy

Docket Entries in the District Court.

Date

1972

of Post-trial brief and proposed findings of fact and conclusions of law was served upon defendant by mail, on Dec. 29, 1971.

Jan. 11 101- PHOTO COPIES — of War Labor Board Cases cited in Defendant's brief.

Jan. 11 102- REVISED REQUESTS — of Defendant for findings of fact and conclusions of law.

Jan. 11 103- CORRECTED POST-TRIAL BRIEF — of Defendant.

Jan. 14 104- POST-TRIAL PROPOSED FINDINGS OF FACT — and conclusions of law filed by Plaintiff.

Jan. 14 105- POST-TRIAL BRIEF — of Plaintiff.

Jan. 19 106- PLAINTIFF'S REPLY BRIEF

Jan. 19 107- DEFENDANT'S REPLY BRIEF

March 31 108- OPINION — and (M)

March 31 ORDER — Judgment is hereby entered in favor of Defendant and against Plaintiff. Plaintiff's request for an injunction enjoining alleged violations of Sections 15 (a) (1) and 15 (a) (2) of the Fair Labor Standards Act of 1938, as amended, 52 stat. 1060, 29 U. S. C. Sections 201-219, and for withholding of payment of wages allegedly due Defendant's employees under the Act, is hereby denied. (M)
Copies to counsel of record from Lewisburg office.

Docket Entries in the District Court.

Date

1972

March 31 109- SUPPLEMENTAL FINDINGS — of fact.

Copies to counsel of record from Lewisburg office.

March 31 J. S. 6

May 30 110- NOTICE OF APPEAL — filed by plaintiff, and

CERTIFICATE — of service thereof. Copy to Ct. of Appeals and counsel of record.

May 30 111- PLAINTIFF'S MOTION — to extend time for transmission of Record on Appeal and Docketing Appeal., and

May 30 CERTIFICATE — of service thereof.

June 2 112- ORDER — NOW, THEREFORE, the Motion to extend the Time for Transmission of the Record and for Docketing of Appeal is denied. (M) Copies mailed to counsel of record from Lewisburg office.

June 28 RECORD ON APPEAL — mailed to U. S. Court of Appeals, together with certified copy of docket entries.

CHRONOLOGICAL LIST OF DOCKET ENTRIES IN THE COURT OF APPEALS.

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

72-1590
Hodgson, Secy of Labor
(Corning Glass Works)

APPEAL FROM MIDDLE DISTRICT OF PENNSYLVANIA
(SCRANTON)

Case No. 72-1590.

CLOSED

Title of Case:

PETER BRENNAN, Secretary of Labor, United States Department of Labor,

Appellant,

vs.

CORNING GLASS WORKS, a corporation.

---

480 F.2d 1254.

Attorneys for Appellant:

.....

Attorneys for Appellee:
Scott F. Zimmerman
Reed, Smith, Shaw & McClay

Robert F. Cox
Cox, Wilcox, Owlett & Lewis

Docket Entries in the Court of Appeals.

No. Below: S. D. C. Civil 69-396.

Judge Below: Malcolm Muir.
Date of Judgment: .....

Notice of Appeal Filed: May 30, 1972.

Commenced in D. C. 10-2-69.

Date		*Docket Entries*
1972		
July	10	Copy of Notice of Appeal, rec'd. June 26, 1972, filed. Record, rec'd. July 5, 1972, filed.
Jul.	17	Appearance of Scott F. Zimmerman, Esq.; Reed, Smith, Shaw & McClay for appellee, filed.
Jul.	20	Appearance of Robert F. Cox, Esq.; Cox, Wilcox, Owlett & Lewis for appellee, filed.
Aug.	18	Motion by appellant for extension of time until September 9, 1972 within which to file brief and appendix, filed.

Docket Entries in the Court of Appeals.

Date	
1972	
Aug. 23	Above motion granted by the Clerk and directing that no further extensions will be granted in this case and unless timely filing occurs, this case will be listed for dismissal for want of timely prosecution, filed.
Sept. 11	Brief for appellant, filed. (4 cc.—25 cc. rec'd September 18, 1972). Certificates of service by hand delivery on September 11, 1972 and by mail on September 15, 1972 appear on Page 49 of briefs.
Sept. 18	Motion by appellant for leave to file appendix out of time by October 11, 1972, filed (3 copies). Certificate of service attached.
Sept. 26	Submitted on above motion. CLERK.
Sept. 25	Motion by appellee for leave to extend time to file brief to November 2, 1972, filed. (5 copies). Certificate of service attached.
Sept. 27	Above consent motion granted. CLERK. NO FURTHER EXTENSIONS.
Oct. 2	Order (Clerk) granting appellant's motion for leave to file appendix out of time by October 11, 1972, filed.
Oct. 11	Appendix, (Vols. I and II), filed.
Oct. 11	Affidavit of service of appendix by mail on October 10, 1972, filed.

Docket Entries in the Court of Appeals.

Date	
1972	
Nov. 3	Brief for appellee, rec'd November 6, 1972, filed. (25 cc.). Proof of service by mail on November 3, 1972 appears in letter dated November 3, 1972. See Order Nov. 22—granting substituting of Brief—Appendix—filed as of 11-22-72.
Nov. 2	Motion by appellant for leave to file supplemental appendix out of time, filed. (4 copies). Certificate of service attached.
Nov. 13	Submitted on above motion by appellant for leave to file supplemental appendix out of time. CLERK.
Nov. 14	Order (*Clerk*) granting appellant's motion for leave to file supplemental appendix out of time, filed.
Nov. 14	Supplemental appendix, rec'd October 30, 1972, filed. (10 cc.). Affidavit of service by mail on October , 1972 attached to brief.
Nov. 18	Motion by appellee for permission to substitute a printed brief in excess of 50 pages to 55 pages, for brief previously filed on November 3, 1972, and for leave to file an appendix, with the cost of printing substitute brief and appendix to be borne by appellee regardless of the outcome of this appeal, in which it states that counsel for appellant has given its consent to this motion, filed. Certificate of service attached.

Docket Entries in the Court of Appeals.

Date	
1972	
Nov. 20	Consent motion by appellant for leave to file reply brief out of time by December 4, 1972, filed. (4 cc.). Certificate of service attached.
Nov. 21	Submitted on above motion by appellee. *Clerk.*
Nov. 22	Above consent motion granted. NO FURTHER EXTENSIONS. *Clerk.*
Nov. 22	Order (*Clerk*) granting appellee's motion for permission to substitute a printed brief in excess of 50 pages to 55 pages, for brief previously filed on November 3, 1972, and for leave to file an appendix, with the cost of printing substitute brief and appendix to be borne by appellee regardless of the outcome of this appeal, filed.
Nov. 22	Brief and Appendix for appellee, Corning Glass Works, rec'd. January 12, 1973, filed.
Dec. 5	Motion by appellant for leave to extend time to file reply brief to December 11, 1972, filed (4 cc.). Certificate of service in motion.
Dec. 13	Submitted on above motion. Clerk.
Dec. 15	Order (Clerk) granting appellant's motion for leave to extend time to file reply brief to December 11, 1972, NO FURTHER EXTENSIONS FOR ANY REASON, filed.

Docket Entries in the Court of Appeals.

Date	
1973	
Jan. 12	Affidavit of service of appellee's brief and appendix by mail on January 10, 1973, filed.
May 17	Letter dated May 17, 1973 enclosing copy of Second Circuit opinion in *Hodgson v. Corning Glass Works,* decided Feb. 2, 1973, 474 F. 2d 226, rec'd from Carin Ann Claus, Esquire for the information of the Court.
May 21	Argued. Coram: Kalodner, Aldisert and Adams, Circuit Judges.
May 29	Letter dated May 25, 1973 together with enclosures rec'd from Carin Ann Clauss, Esquire in response to Court's request during oral argument.
May 29	Supplemental brief for appellee, filed. (permission granted to file same at oral argument). (25 copies)
Jun. 4	Motion by appellee to Strike Appellant's letter dated May 25, 1973, rec'd (4 copies), filed. service attached.
Jun. 4	Response of appellee to appellant's letter dated May 25, 1973, rec'd (4 copies), for the information of the Court.
Jun. 28	Opinion of the Court (Kalodner, Aldisert and *Adams,* C.J.), filed.
Jun. 28	Judgment affirming, with costs taxed against appellant the judgment of the District Court filed March 31, 1972, filed.

Docket Entries in the Court of Appeals:

Date	
1973	
Jul. 11	Motion by appellant for Stay of Mandate, filed. (4 cc) service attached.
Jul. 12	Order (Adams, C.J.) staying issuance of the certified judgment in lieu of formal mandate until September 26, 1973, filed.
Sep. 20	Copy of letter dated September 18, 1973 from Clerk of S.C. to counsel for appellant advising that Justice Brennan extended the time for filing petition for writ of certiorari to October 26, 1973.
Sep. 27	Certified judgment in lieu of formal mandate issued.
Sep. 27	Record returned to Clerk of District Court.
Oct. 1	Receipt for record, filed.
Oct. 31	Notice of filing of petition for writ of certiorari on October 26, 1973 rec'd from the Clerk of the Supreme Court, filed. (S. C. No. 73-695)
Nov. 19	Certified copy of appendices and (partial) proceedings forwarded to the Clerk of the Supreme Court pursuant to the request of counsel.
Dec. 26	Certified copy of order dated December 17, 1973 granting petition for writ of certiorari rec'd from Clerk of Supreme Court; and stating that this case is consolidated in S.C. With No. 73-29 and a total of 1 hour is allotted for oral argument, filed. (S.C. No. 73-695)

COMPLAINT.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

JAMES D. HODGSON, Secretary of Labor, United States Department of Labor,

Plaintiff,

v.

CORNING GLASS WORKS, a Corporation,

Defendant.

Civil Action No. 69-396.

Plaintiff brings this action to enjoin defendant from violating the provisions of sections 15(a) (1) and 15(a) (2) of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, 29 U.S.C. 201-219), hereinafter called the Act, and to restrain any withholding of payment of wages found by the court to be due to employees under the Act.

I.

Jurisdiction of this action is conferred upon this court by section 17 of the Act.

II.

Defendant, Corning Glass Works, is and at all times hereinafter mentioned was a New York corporation having an office and place of business at Jackson Street, Wellsboro, Tioga County, Commonwealth of Pennsylvania, within the jurisdiction of this court, and is and at all times hereinafter mentioned was engaged in the manufacture and distribution of a variety of glassware.

Complaint.

III.

At all times hereinafter mentioned defendant employed, and it is employing, many employees in and about its aforesaid place of business in the manufacture and distribution of various kinds of glassware. Substantial quantities of the goods produced by these employees have been and are being produced for commerce within the meaning of the Act and have been and are being transported, offered for transportation, shipped, delivered, and sold in commerce from defendant's aforesaid place of business to other States.

IV.

Defendant, an employer having employees subject to the provisions of section 6 of the Act, as aforesaid, has repeatedly and willfully violated, and it is willfully violating, the provisions of sections 6(d) and 15(a) (2) of the Act by discriminating, within its aforesaid establishment in which such employees have been and are employed, between employees on the basis of sex by paying wages to employees in such establishment at rates less than the rates at which it pays wages to employees of the opposite sex in such establishment for equal work on jobs, the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

V.

Defendant has repeatedly and willfully violated, and it is willfully violating, the provisions of section 15(a) (1) of the Act in that it has transported, offered for transportation, shipped, delivered, and sold in interstate commerce from its aforesaid place of business to other States, goods in the production of which employees were employed in violation of section 6 of the Act, as alleged.

VI.

Since on or about June 11, 1964, defendant has repeatedly and willfully violated, and it is willfully violating, the aforesaid provisions of the Act. A judgment enjoining and restraining the violations hereinabove alleged is expressly authorized by section 17 of the Act;

WHEREFORE, cause having been shown, plaintiff prays judgment permanently enjoining defendant, its officers, agents, servants, employees, and those persons in active concert or participation with them, from violating the provisions of sections 15(a) (1) and 15(a) (2) of the Act, and for such other and further relief as may be necessary and appropriate, including the restraint of any withholding of payment of wages found by the court to be due to employees under the Act.

/s/ L. H. SILBERMAN
Solicitor of Labor

/s/ LOUIS WEINER
Regional Solicitor

/s/ MARSHALL H. HARRIS
Deputy Regional Solicitor

Attorneys for George P. Shultz, Secretary of Labor, United States Department of Labor, Plaintiff.

[Filed, October 2, 1969]

• • • •

ANSWER.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

(Case title omitted in printing.)

Defendant, Corning Glass Works, files the following Answer to the Complaint in the above-captioned case:

1. The averments of Paragraphs I, II and III of the Complaint are admitted.

2. The averments of Paragraphs IV, V and VI of the Complaint are denied.

Affirmative Defenses

3. Corning Glass Works, Wellsboro Plant, has not in the past and does not presently discriminate in any manner against female employees. Any difference in wage rates among employees is based upon either a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or any other factor other than sex.

4. The Complaint in this action was served upon Corning Glass Works' Wellsboro Plant on October 16, 1969, therefore any matters which occurred on or before October 16, 1967, are barred by the statute of limitations. In the event that Plaintiff proves a violation of the Act and that such violation was willful, this action is barred to the extent that it depends upon events which occurred prior to October 16, 1966.

WHEREFORE, Defendant prays that the Complaint be dismissed.

Respectfully submitted,

/s/ Robert F. Cox
/s/ Cox, Wilcox, Owlett & Lewis

/s/ John G. Wayman
/s/ Scott F. Zimmerman
/s/ Reed, Smith, Shaw & McClay

Counsel for Defendant,
Corning Glass Works

[Filed, November 16, 1969]

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STIPULATIONS OF FACTS.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

(Case title omitted in printing.)

(AGREED TO ON OCTOBER 21, 1971)

Counsel for the parties enter into the following stipulation of facts as required by section 5.1 of the June 3, 1971 Pretrial Order entered by the court in this case.

1. This is a suit by the Secretary of Labor under section 17 of the Fair Labor Standards Act (Act of June 25, 1938, 52 Stat. 1060, as amended; 29 U.S.C. 201, *et seq.*), to enjoin defendant, its officers, agents, servants, employees,

and those persons in active concert or participation with them, from violating the equal pay provisions of the Act, and for such other and further relief as may be necessary and appropriate, including the restraint of any withholding of payment of wages found by the court to be due to employees under the Act. Jurisdiction of this action is conferred upon the court by section 17 of the Act.

2. Corning Glass Works ("Corning") is a New York corporation having its principal offices and main plant in Corning, New York, and 27 plants located in various States, one of which is located at Jackson Street, Wellsboro, Tioga County, Commonwealth of Pennsylvania, within the jurisdiction of this court.

3. Since 1916, with the exception of a shutdown period in 1925, defendant has been and is employing many employees at its Wellsboro plant in the manufacturing and distribution of various kinds of glassware. Substantial quantities of the goods produced by these employees have been and are being transported, offered for transportation, shipped, delivered and sold in commerce from the Wellsboro plant to other States.

4. The Wellsboro plant consists of one building with one main entrance.

5. The Wellsboro plant operates continuously on a three shift basis — 6 A.M. to 2 P.M. (day or second shift), 2 P.M. to 10 P.M. (afternoon or third shift), and 10 P.M. to 6 A.M. (night or first shift). Hereinafter the day and afternoon shifts will be referred to as the day shifts.

6. The jobs on which a violation of the Equal Pay Act is alleged are the jobs of Inspector-Packer, Positioner-

Inspector, Frost Light Inspector and Quality Inspector in the Wellsboro plant.

7. Women were first hired as production employees in 1917 and placed on jobs for inspecting and packing ware and making cells, a type of packing material. They worked on the day shifts.

8. Prior to October 16, 1966, except during World War II, only female employees worked the jobs of Inspector-Packer, Positioner-Inspector, Frost Light Inspector and Quality Inspector on the rotating day and afternoon shifts.

9. Prior to October 16, 1966, except during World War II, only male employees worked the jobs of Inspector-Packer, Positioner-Inspector, Frost Light Inspector and Quality Inspector on the steady night shift.

10. The steady night shift inspection jobs were created between 1925 and 1930 because of the introduction of automatic production equipment which made it necessary to inspect ware on all shifts.

11. At the time of the institution of inspection work on the night shift Corning Glass Works did not pay shift differentials.

12. When male inspectors were first assigned to the steady night shift hiring rates were determined by what an employer had to pay to fill his labor needs in the community market place. Thereafter, the rates were individual and personal, depending upon what the employer thought the employee was worth.

13. The men first assigned to inspection work on the night shift were selected from male employees within the plant and were paid the individual, personal rates they

were already receiving which were higher than the rates being paid to women doing inspection work on the day shifts.

14. The higher base hourly rate was paid only for inspection work on the steady night shift. It was never paid for inspection work on the day and afternoon shifts.

15. Until 1947, under Pennsylvania law, women were not permitted to work between the hours of 12 midnight and 6:00 a.m. (Act of July 25, 1913, P.L. 1024).

16. In 1947, Pennsylvania law was amended to permit women to work at night conditioned upon the approval of the State Department of Labor. (Act of May 21, 1947, P.L. 389, §4). The State regulations provided, among other things, that in order to be permitted to employ women at night an employer was required to furnish transportation where public transportation was not available.

17. On July 17, 1965 the State regulations were amended to provide that an employer in a manufacturing establishment could employ women between the hours of 10 p.m. and 6 a.m. if that employer arranged for adequate transportation for women workers or if prompt public transportation was available or the individual worker had regular private transportation. CCH State Wage and Hour Citator ¶57,849.

18. Public transportation has not been available in Wellsboro, Pennsylvania.

19. Beginning on October 16, 1966, Corning has employed women between the hours of 12 midnight and 6:00 a.m. without providing transportation. To the best of defendant's knowledge, these employees have regular private transportation.

20. On November 14, 1969, the Attorney General of the State of Pennsylvania issued an opinion that the Pennsylvania law conditioning the ability of employers to employ women at night had been impliedly repealed by a 1969 amendment to the Pennsylvania Human Relations Act. (Act No. 56 of 1969, P.L. 744, as amended, 43 P.S. 951 *et seq.*)

21. In February, 1944, the American Flint Glass Workers' Union of North America negotiated a collective bargaining agreement covering the production and maintenance employees of the Wellsboro plant, including the inspectors who worked on the jobs of Inspector-Packer, Positioner-Inspector, Frost Light Inspector and Quality Inspector.

22. This contract provided that employees working a non-rotating night shift would receive a shift differential as a premium for such night work.

23. In addition to the new "shift differential", this contract continued in effect the existing differential in base rate between the steady night shift inspection jobs and the day and afternoon shift inspection jobs.

24. Similarly, all collective bargaining agreements entered into by Corning Glass Works with the Union, between the years 1944 and 1969 continued to maintain the differential in base rate between the steady night shift inspection jobs and the day and afternoon shift inspection jobs, except for minor variations caused by negotiation of percentage rather than flat rate increases.

25. The contract shift differentials have been and are as follows:

Date Contract Signed	*Afternoon*		*Night*	
	Rotating	*Non-Rotating*	*Rotating*	*Non- Rotating*
2-15-44	-	3¢		5¢
2-12-45	4¢	4¢	6¢	6¢
1-04-46	2¢	4¢	3¢	6¢
10-22-46	2¢	4¢	3¢	6¢
10-22-47	2¢	4¢	3¢	10¢
11-13-48	2¢	4¢	3¢	10¢
10-07-50	2¢	4¢	3¢	10¢
10-20-51	2¢	4¢	3¢	10¢
11-11-52	4¢	4¢	6¢	10¢
10-29-53	4¢	4¢	6¢	10¢
11-21-54	4¢	4¢	6¢	10¢
10-27-55	4¢	4¢	6¢	10¢
11-26-56	4¢	4¢	6¢	10¢
12-01-57	4¢	4¢	6¢	10¢
12-08-58	6¢	6¢	8¢	12¢
1-07-60	6¢	6¢	8¢	12¢
1-13-61	6¢	6¢	8¢	12¢
1-19-62	6¢	6¢	8¢	12¢
1-11-63	6¢	6¢	8¢	12¢
1-14-66	6¢	6¢	8¢	12¢
1-10-69	10¢	10¢	12¢	16¢

26. Effective February 2, 1969, Corning Glass Works paid, and is paying, a shift differential of 31 cents per hour for work on the steady night shift at its Charleroi, Pennsylvania, plant. All employees on the steady night shift receive the 31 cents an hour differential. Prior to the contract of February 2, 1969, the steady night shift differential was 10 cents per hour.

27. No other plant of Corning has had or has as high a steady night shift differential as 31 cents per hour.

28. The present range of steady night shift differential at Corning's other plants is 13 - 19 cents.

29. A Corning subsidiary, Components, Inc., pays a shift differential to all employees who work on the steady night shift which amounts to 20 percent of the employee's base hourly rate. This differential is paid to employees at 3 separate plants located in Biddeford, Maine, Kennebunk, Maine and Phoenix, Arizona.

30. From at least 1947 through October 15, 1966, only men were assigned to the job entitled Inspector-Packers Nights. The term "Nights" was dropped on January 20, 1969, and since that date employees on the night shift are simply designated as Inspector-Packers. There was no change in duties concurrent with dropping the "Nights" designation.

31. Since June 11, 1964 mechanization has resulted in the need for fewer employees to perform inspector-packer work. There is now an average of eight Inspector-Packers on each of the three shifts with a variation of between 4 to 15.

32. Since June 11, 1964, there have been no significant changes in the job entitled Inspector-Packer and the job entitled Inspector-Packer Nights for the period of its existence.

33. Each employee who, since at least June 11, 1964, has been classified as Inspector-Packer and Inspector-Packer Nights has actually performed and is actually performing the following duties:

> Packs bulbs or ornaments for shipment or for in-process storage. This work includes such duties as:

Moves empty carton from conveyor to packing stand, opens and inserts internal packing as required, closes full hamper and slides or lifts to take away conveyor.

Picks up 6 to 8 bulbs or ornaments at a time by grasping 3 or 4 between the fingers of each hand and bulk, tier, tray, or cell packs in hampers. Works rapidly, paced by the conveyor belt. When tier packing, alternates the bulbs up and down in rows. When tray packing, distributes the ornaments in one motion across the tray so that the neck of each ornament falls into proper position.

Uses hand fork to pick up bulbs from belt or from frost trays and bulk packs in hamper or in tote box.

Observes bulbs on belt and as handled and discards any bulb with obvious defects such as broken, cracked flare, twisted neck, etc.

Attends mechanical bulk packer, opening hamper and moving it to loading position, operating lever to start and stop flow of bulbs, placing paddle to break fall of first bulbs in each hamper, leveling bulbs in hamper, and moving hamper from loading position when full.

Maintains good housekeeping in work area.

In addition, male Inspector-Packers on the steady night shift have performed the additional duties set forth in #34 and 35, *infra*. The parties disagree, *inter alia*, as to the following:

(a) Whether the duties described in #34 and 35, *infra*, are part of the job of Inspector-Packer on the steady night shift for employees employed on or before January 20, 1969. With respect to employees hired subsequent to January 20,

1969, the parties are in agreement that the duties in #34 and 35, *infra*, are not a part of the job of Inspector-Packer.

(b) The amount of time spent by male Inspector-Packers on such duties.

(c) The number of male steady night shift Inspector-Packers who have performed these additional duties.

34. Male Inspector-Packers on the steady night shift are sometimes assigned to duties which are primarily of a materials handling nature. These assignments take place (1) as the result of interruptions in the production process, (2) to fill in for absentees in the Hiker classification and (3) to fill fluctuating personnel requirements in the materials handling area. At times, during such assignments, the men move stands, conveyors, scales, and other equipment. The other equipment is of no greater weight or bulk, and its movement requires no greater skill, effort or responsibility than moving the stands, conveyors and scales. At times the men are assigned to prepare packing work stations; make up hampers; weigh and adjust product quantities; seal and palletize filled hampers of product; properly identify hampers and pallets of ware and record count; move pallets and tote boxes and clean and sweep work areas. On the steady night shift only males have performed such additional duties. These duties are among the duties usually performed by employees classified as Hikers.

35. The work of sealing and palletizing filled hampers of product involves the following duties:

The pallet is 44½" wide x 67½" long x 4½" high. The parties are in agreement that in order to perform the function of sealing and palletizing, a stack of pallets is placed

in close proximity to the employee working on that job. The pallet must be removed by hand from the stack and placed on the floor. The employee places the pallet in ready position by picking up one end and sliding it on the floor to the desired location. However, mechanical means are available to the employees for use in moving the pallets to the desired location.

Hampers to be palletized have been sealed and are sitting on a 22" high conveyor. Each hamper is picked up and placed on the pallet in such a way that tiers are formed according to a specified pattern. The standard pallet load is 4, 5, or 6 tiers high depending on the hamper size and the shipping method to be used.

The parties are in disagreement as to whether inspectors move loaded pallets of ware.

Cord or reinforced tape is applied around the top tier of hampers on each pallet load to hold the load together.

36. In 1947 the differential in base hourly rates between the job of Inspector-Packer and Inspector-Packer Nights was 19 cents an hour.

37. The following maximum base hourly rates have been paid to employees with service dates on or before January 20, 1969, when performing the duties described in 33-35, *supra;*

	1/20/64 to 11/2/64	11/2/64 to 11/1/65	11/1/65 to 11/1/66	11/1/66 to 11/1/67	11/1/67 to ?	1/20/69 to 11/3/69	11/3/69 to 1/5/70	1/5/70 to 11/2/70	11/2/70 to 1/4/71	1/4/71 to Present
Night shift	$2.21½	$2.28½	$2.39	$2.45	$2.55	$2.77½	$2.89½	$2.92½	$3.04	$3.07
Day shifts	2.02½	2.09	2.19	2.25	2.34	2.60	2.72	2.74½	2.85½	2.88½
Differential	.19	.19½	.20	.20	.21	.17½	.17½	.18	.18½	.18½

The question mark in the fifth column is inserted because the parties are in disagreement as to the effect of the contract of January 10, 1969.

38. From at least 1947 through October 15, 1966, only men were assigned to the job of Frost-Light Inspector Nights. The term "Nights" was dropped from the job title on January 20, 1969, and the job continued to be performed on the night shift under the title of Frost Light Inspector. There was no change in duty concurrent with dropping the "Nights" designation.

39. An average of three employees are normally assigned as Frost-Light Inspectors on each of the three shifts.

40. Frost-light inspection is performed intermittently throughout the year. Employees performing this work are normally multiple-rate employees. The other jobs most likely to be carried as part of the multiple rate are Inspector-Packer and Visual Quality Inspector.

41. Each employee who, since at least June 11, 1964, has been classified as Frost-Light Inspector and Frost-Light Inspector Nights has actually performed and is actually performing the following duties:

> Inspects frosted ware for glass quality and frosting defects and for broken and cracked flares. Alternates between two positions performing duties such as:
>
> Inspects top of trayed ware held over inspection light. Removes all bulbs containing unsatisfactory visual defects such as frost spots or streak, splashed bulbs, clear spots, cracked flares, twisted necks, blisters, seeds, severe mold rings, etc. When majority of ware is bad, dumps whole tray. Also dumps trays when *Quality Inspector* signifies that ware is unsatisfactory for packing. Sets out trays when defects are such that they can be corrected by refrosting.

Inspects flare side of trayed ware (bottom side) as trays pass over inspection light. With long-handled mallet knocks out bulbs which are broken or have cracked flares.

Maintains proper flow of trays to packing position by operating tray drive chain switch or by setting out trays as necessary. Places automatic ejector pins in splashed or damaged trays. Wipes oil and grease from top of trays to protect bulbs as required.

Sets out trays rapidly to prevent jamming when take away chain, bulk packer, or tray tower fails.

Maintains good housekeeping in work area.

It is not stipulated that the foregoing description of duties sets forth all duties actually performed by employees who, since at least June 11, 1964, have been classified as Frost-Light Inspector Nights.

42. From 1947 to January 20, 1964, the differential in base hourly rates between employees working as Frost Light Inspectors and Frost Light Inspector Nights was 18 cents an hour.

43. The following maximum base hourly rates have been paid to employees with service dates on or before January 20, 1969, when performing the duties described in #41, *supra;*

	1/20/64 to 11/2/64	11/2/64 to 1/18/65	1/18/65 to 11/1/65	11/1/65 to 11/1/66	11/1/66 to 11/1/67	11/1/67 to ?	1/20/69 to 11/3/69	11/3/69 to 1/5/70	1/5/70 to 11/2/70	11/2/70 to 1/4/71	1/4/71 to Present
ift	$2.26½	$2.34	$2.34	$2.44½	$2.50½	$2.60½	$2.83½	$2.95½	$2.98½	$3.10½	$3.13½
ts	2.08½	2.15½	2.18½	2.28½	2.34½	2.44	2.74½	2.86½	2.89½	3.01	3.04
ial	.18	.18½	.15½	.16	.16	.16½	.09	.09	.09	.09½	.09½

The question mark is inserted in the sixth column because the parties are in disagreement as to the effect of the contract of January 10, 1969.

44. From at least September 24, 1949, through October 15, 1966, only men were assigned to the job entitled Quality Inspector Nights. From October 16, 1966, women have been able to exercise seniority rights to obtain Quality Inspector Nights job and the other inspection jobs involved in this case as vacancies occur or to bump into such jobs in event of reduction in force. The term "Nights" was dropped on January 20, 1969, and since that date employees on the night shift are also designated Quality Inspectors. There was no change in duties concurrent with the dropping of the "Nights" designation.

45. Presently each shift uses 3 to 5 Quality Inspectors with an average of 4.

45a. From at least September 14, 1948, through the week ending September 11, 1966, only men were assigned to the job of Positioner-Inspector on the steady night shift. The job of Positioner-Inspector on the steady night shift was eliminated on 9/11/66.

45b. From at least June 1964 to January 1, 1971, two employees normally were assigned as Positioner-Inspectors on each shift which worked.

45c. Since January 1, 1971, mechanization has eliminated the need for positioner-inspection work.

45d. Each employee who, from at least June 11, 1964 to January 1, 1971, was classified as Positioner-Inspector and Positioner-Inspector Nights actually performed the following duties:

> Positioned bulbs in runs of traying machine. Performed duties such as:

Picked up and positioned bulbs which failed to drop properly into the trayer lanes. Transferred bulbs from one lane to another as required so that an adequate supply was always available in each lane.

Discarded obviously defective bulbs such as broken or cracked flares.

Maintained good housekeeping in work area.

It is not stipulated that the foregoing description of duties sets forth all duties actually performed by employees who, from at least June 11, 1964 to January 1, 1971, have been classified as Positioner-Inspector Nights.

45e. In 1947 the differential in base hourly rates between the jobs of Positioner-Inspector and Positioner-Inspector Nights was 19 cents an hour.

45f. The following maximum base hourly rates have been paid to employees with service dates on or before January 20, 1969, when performing the duties described in #45d, *supra:*

	1/20/64 to 11/2/64	11/2/64 to 11/1/65	11/1/65 to 11/1/66	11/1/66 to 11/1/67	11/1/67 to ?	1/20/69 to 11/3/69	11/3/69 to 1/5/70	1/5/70 to 11/2/70	11/2/70 to 1/1/71
Night shift	$2.21½	$2.28½	$2.39	$2.45	$2.55	$2.77½	$2.89½	$2.92½	$3.04
Day shifts	2.02½	2.09	2.19	2.25	2.34	2.60	2.72	2.74½	2.85½
Differential	.19	.19½	.20	.20	.21	.17½	.17½	.18	.18½

The question mark is inserted in the fifth column because the parties are in disagreement as to the effect of the contract of January 10, 1969.

46. From at least June 11, 1964, to February 26, 1968, each employee who was classified as Quality Inspector and Quality Inspector Nights actually performed the following duties:

> Inspected any ribbon machine product for all glass, shop, dimensional and finishing defects, using inspection gauges and working from written ware specifications and drawings. (Ribbon machines are high speed blowing machines into which molten glass is fed from a tank.) This work included such duties as:
>
> Studied instruction sheet. Prepared control chart by drawing acceptance, control, process, and rejection limits. Inspected for accuracy, zeroed in, and adjusted as necessary all measuring equipment used.
>
> Inspected samples of ware for all visual defects such as mold rings, blisters, slack blown, chips, knots, poor frost, lacquer, or ceramic quality, etc. Used polariscope to check strain.
>
> Inspected samples of ware for designated dimensional defects such as neck, top, and side wall thickness, out of round, O.D., and I.D., using optical gauges, dial indicator, micrometer, go-no-go gauges, etc.
>
> Recorded and plotted results on control charts. Accepted or rejected ware according to prescribed limits. Recalculated control limits according to a standard procedure for control, rejection, and process limits.

Performed bump test on frosted bulbs, immersion and humidity tests on lacquered ornaments, checks uniformity of ceramic coating, etc.

Maintained good housekeeping in work area.

It is not stipulated that the foregoing description of duties sets forth all duties actually performed by employees who, from at least June 11, 1964, to February 26, 1968, have been classified as Quality Inspector Nights.

47. Since February 26, 1968, each employee classified as Quality Inspector and Quality Inspector Nights has been and is actually performing the following duties:

Inspects any ribbon machine product for all glass, shop, dimensional, and finishing defects, using inspection gauges and working from written ware specifications and drawings. This work includes such duties as:

Studies instruction sheet. Prepares control chart by drawing acceptance, control, process, and rejection limits. Records and plots results of visual, dimensional, and distributional inspection. Inspects for accuracy, zeros in, and adjusts as necessary all measuring equipment used.

Inspects samples of clear and frosted ware for all visual defects such as mold rings, blisters, slack blown, chips, knots, poor frost, etc. Inspects finished ware for additional visual characteristics such as silver and enamel quality on ornaments or bulbs, contour and color of decorative lamps, cap and wire formation on ornaments, condition of neck and glaze on cut bulbs, etc. Uses polariscope to check strain.

Inspects samples of ware for designated dimensional defects such as neck, top, and sidewall thickness, out of round, O.D. and I.D. measurements, overall length, squareness of cut, toe in, contour and length of formed tip, etc. Uses gauges, dial indicator, micrometer, contour gauges, go-no-go gauges, etc.

Accepts, rejects, or holds ware for reinspection based on inspection results; notifies supervisor and other designated persons of inspection results.

Checks hourly for proper sealing and physical condition of hampers, and tape for correct information and legibility of printing. Notifies foreman of any unacceptable condition and may hold ware if these conditions are not corrected.

Reports losses of samples and selects defect sample candidates for supervisor's approval. Performs bump test on frosted bulbs, immersion and humidity tests on ornaments, checks uniformity of ceramic coating, etc.

Reports to supervisor loss or damage to any departmental equipment.

It is not stipulated that the foregoing description of duties sets forth all duties actually performed by employees who, since at least February 26, 1968, have been classified as Quality Inspector Nights.

48. On September 24, 1949, the differential in base hourly rates between the jobs entitled Quality Inspector and Quality Inspector Nights was 20 cents an hour. Due to percentage increases the differential increased over the years to 25½ cents an hour by 1969.

49. The following maximum base hourly rates have been paid to employees with service dates on or before January 20, 1969, performing the duties described in #46 and 47, *supra*, at the times therein indicated:

	1/20/64 to 11/2/64	11/2/64 to 11/1/65	11/1/65 to 11/1/66	11/1/66 to 11/1/67	11/1/67 to ?	1/20/69 to 11/3/69	11/3/69 to 1/5/70	1/5/70 to 11/2/70	11/2/70 to 1/4/71	1/4/71 to Present
ght shift	$2.375	$2.45	$2.56	$2.62	$2.725	$2.965	$3.085	$3.115	$3.24	$3.27
y shifts	2.165	2.235	2.335	2.395	2.49	2.79	2.91	2.94	3.06	3.09
ferential	.210	.225	.225	.225	.235	.175	.175	.175	.18	.18

The question mark in the fifth column is inserted because the parties are in disagreement as to the effect of the contract of January 10, 1969.

50. The Wellsboro plant produces glass envelopes for incandescent bulbs (clear and frosted), radio receiver bulbs, photo flash bulbs, and Christmas tree ornaments. The molten glass flows from a tank with three faucets into high speed automatic blowing machines, called ribbon machines. There are seven ribbon machines in the plant. Normally there are three ribbon machines in operation.

51. The inspectors work on the three production lines coming out of the ribbon machines or in finishing operations. These work stations are referred to as positions 721, 722 and 723. Inspectors also work at a supplemental furnace for three or four months a year at a position referred to as 712.

52. Inspector-Packers and Quality Inspectors work at positions 721, 722, 723 and 712.

53. The job of Positioner-Inspector on the steady night shift was eliminated on September 11, 1966, and since that time it has been performed only on the day shift.

54. The job of Positioner-Inspector was eliminated January 1, 1971. During the time that it existed it was performed at No. 4 Frost Traying Unit, which is integrated with position 722.

55. The Frost Light Inspectors work at positions on Frost Units, which are involved in the frosting operation. One position is No. 4 Frost Unit which is integrated with #722 position. They also work on another position not fed by a machine. At this position ware which has previously been packed and put into the warehouse is unpacked, put on trays (referred to as "traying") and frosted. Interruptions at this position occur when the frosting solution fails.

56. Interruptions on the production line are of two general types—scheduled and unscheduled. The scheduled interruptions involve change of product; change of molds or other equipment; maintenance and repair work and change of pack. The unscheduled ones usually involve equipment breakdown or poor quality product. Corning tries to schedule predictable interruptions for the day shifts.

57. Daily operators' reports are kept for each shift. These report the intervals when glassware is not being inspected at each inspection position due to interruptions. March 1971 was a typical month.

58. At position 721 during March 1971 the operators' reports show no interruptions during 26 of the 31 night shift operations. On March 10 there was a 25 minute interruption. On March 18 there was [sic] a 12 minute interruption for a change. On March 22 there was a five minute interruption, for an unindicated reason. On March 23 there

was a one hour and 45 minute interruption due to machine failure. On March 26 there was a one hour and 15 minute interruption due to an operational problem.

59. At position 722 during March 1971 the operators' reports show no interruptions during 24 of the 31 night shift operations. On March 2 there was a 20 minute interruption for an unindicated reason. On March 6 there was a five minute interruption for a loose plate. On March 9 there was a 25 minute interruption for an unindicated reason. On March 16 there was a 25 minute interruption for an unindicated reason. On March 19 there was a 35 minute interruption for a mold change. On March 23 there was a 25 minute interruption for an unindicated reason. On March 30 there was a 25 minute interruption for an unindicated reason.

60. At position 723 during March 1971 the operators' reports show no interruptions for 27 of the 31 night shift operations. On March 7 there was a 25 minute interruption for an operational problem and a 15 minute interruption for an unindicated reason. On March 15 there was a 50 minute interruption for a type change. On March 24 there was a 15 minute interruption for an unindicated reason. On March 28 there was an hour interruption for a check and reset of the machine.

61. Inspectors worked at position 712 in March 1971 for 12 days. The operators' reports show no interruptions for 7 of the 12 night shift operations at this position. On March 2 there was a 40 minute interruption because thin sides on the ware was being produced. On March 10 there was a 20 minute interruption to change rolls and a 15 minute interruption because the mold latch was locked. On March 15 there was a 40 minute interruption for a type change. On March 17 there was a 4 hour and 20 minute delay in starting

production. On March 18 the production run ended after 1½ hours of operation.

62. Interruptions in the work of Frost Light Inspectors on the night shift at the position referred to in #55, *supra*, as not being fed by a machine occur at about the same frequency as those in #57-61, *supra*.

63. During interruptions, at times, some inspectors on all shifts are assigned to the reinspection belt. The reassigned female inspectors and some of the reassigned male inspectors on all shifts engage in inspecting and repacking the ware at the belt. The inspection at this belt is primarily for broken bulbs. This is work within the Inspector-Packer job classification.

64. On the steady night shift some male inspectors are reassigned to open and empty the hampers onto the reinspection belt and, at the other end of the line, seal and palletize the cartons of ware and also perform the work set forth in the last 3 sentences of #34, *supra*. All of this work is performed by Hikers on the day shift.

65. At times there is a regular crew of Inspector-Packers which works at the reinspection belt. This crew is used to relieve inspectors at other work stations.

66. The job of Hiker has traditionally been performed by men.

67. Three to 13 men work as Hikers assisting Inspector-Packers, Frost Light Inspectors, Positioner-Inspectors, and Quality Inspectors on the morning and afternoon shifts. Three to 13 men work as Hikers assisting such inspectors on the night shift.

68. During interruptions on the production line, some female employees not assigned to removing broken bulbs and repacking the bulbs at the reinspection belt are assigned to traying bulbs for frosting which involves picking them up and putting them in a carton or on a tray.

69. The tasks of the inspectors set forth in paragraphs 34, 35 and 64, *supra*, have never been reflected in Corning's job description of the inspection jobs involved in this case.

70. [Deleted].

71. Men with a plant seniority date subsequent to January 20, 1969, assigned to the job of Inspector-Packer on the steady night shift are paid the base hourly rate for Hiker when assigned to material handling duties during interruptions to the production lines. For example on January 5, 1970, the following rates applied to men assigned as Inspector-Packers on the steady night shift:

	Base Hourly Rate for Inspector-Packer Work	*Base Hourly Rate for Hiker Work*
Those with seniority subsequent to 1/20/69	$2.74½	$2.86 or 11½¢ more
Those with seniority of or prior to 1/20/69	2.92½	2.92½
Differential	$ .18	$ .06½

72. Male and female inspectors employed prior to January 20, 1969, who work on the steady night shift inspection jobs involved in this case are paid at the same base hourly rate.

73. Male and female inspectors employed prior to January 20, 1969, who work on the day shifts on the inspection jobs involved in this case are paid at the same base hourly rate.

74. Female inspectors in the same classification, perform the same duties on all shifts during production time and interruption time. Night shift male and female inspectors hired prior to January 20, 1969, receive the same rate of pay and receive a higher base hourly rate than day shift male and female inspectors, of comparable seniority.

75. The following maximum rates have been paid for the job of Hiker, effective on the dates indicated:

1/20/64	—	$2.165
11/ 2/64	—	2.235
1/18/65	—	2.235
11/ 1/65	—	2.335
11/ 1/66	—	2.395
11/ 1/67	—	2.49—
1/20/69	—	2.71
11/ 3/69	—	2.83
1/ 5/70	—	2.86

76. The CGW Job Evaluation Plan evaluates the jobs of Inspector-Packer, Frost Light Inspector, and Quality Inspector in relationship to other jobs in the Corporation and to each other. Plaintiff does not know whether and makes no claim that the CGW Plan itself evaluates these jobs in other than a fair, equitable and non-discriminatory manner. Plaintiff does know that the evaluation of the respective jobs as they are performed on each shift is proper.

77. Until October 16, 1966, defendant maintained separate "male" and "female" seniority lists.

78. When there were separate "male" and "female" seniority lists women did not work on inspection jobs on the night shift, and men did not work on inspection jobs on the day shifts.

79. At the Wellsboro plant, on October 16, 1966, by mutual agreement between the union and Corning, women were henceforth permitted to exercise their seniority to claim jobs on the steady night shift.

80. Women immediately transferred to fill vacancies on the steady night shift inspection jobs on October 16, 1966. Four women, A. B. Fisher, J. Y. Perry, E. F. Starkweather, and J. E. Stocum, worked as Inspector-Packers on the steady night shift on October 16, 1966. Two additional women, J. M. Copp and E. P. Abernathy, began work on the steady night shift on October 17 and October 18, 1966, respectively.

81. Non-bid jobs are filled through employee transfer requests in which the employee states a desire to move to a particular job or a particular shift. Transfer requests may be filed at any time and are granted, as job openings occur, with employees having the greatest plant-wide seniority receiving first preference among equally qualified transfer applicants.

82. Vacancies on the night shift for non-bid jobs are not posted.

83. The following jobs are non-bid jobs: Inspector-Packer and Hiker. Positioner-Inspector was a non-bid job prior to its elimination.

84. The Wellsboro plant employs approximately 92 women and 388 men.

85. Between October 16, 1966, and June 28, 1970, 59 different men and 120 different women were employed as Inspector-Packers on the steady night shift. During this

period there were 355 separate vacancies of which 92 were filled by men and 263 by women.

86. On March 30, 1971, there were no men regularly working on the day shifts as Inspector-Packer, but there have been a few. No man has ever gone from the job of Inspector-Packer on the steady night shift to that job on the day shifts.

86a. No man has ever gone directly from the jobs of Frost Light Inspector, Quality Inspector or Positioner Inspector on the steady night shift to those jobs of the day shifts.

87. Between October 16, 1966, and June 28, 1970, at various times, ten men and eight women were employed as Quality Inspectors on the steady night shift.

88. Between October 16, 1966, and June 28, 1970, 128 women used their seniority to take jobs as Inspector-Packers, Frost Light Inspectors, and Quality Inspectors on 276 separate openings on the steady night shift. During that period there were a total of 395 openings on these jobs on the steady night shift.

89. Men and women who work the inspection jobs on the steady night shift receive the night shift base hourly rate, plus the contract night shift differential.

90. Similarly, men and women assigned to inspection jobs on the day or afternoon shifts receive the day base hourly rate, the same rate as women who worked the day and afternoon shifts, plus the contract afternoon shift differential where appropriate.

Stipulations of Facts.

91. On January 11, 1963, defendant and the American Flint Glass Workers' Union, including Local 1001 (hereinafter referred to as the unions) entered into a collective bargaining agreement, which was to remain in effect until January 20, 1965.

92. On January 24, 1964, the contract was reopened and amended. The amended contract provided that all hourly wages rates were to be increased 2½ cents an hour effective January 20, 1964, and 3¼ per cent, adjusted to the nearest one-half cent, effective November 2, 1964. A no discrimination clause was added. It was agreed "that there will be no discrimination between employees or applicants for employment for reasons of race, creed, color, or national origin and to comply with State and Federal Laws pertaining thereto." It provided fringe benefits relating to vacations, holidays, pensions, and insurance. It made changes as to seniority and to article XVII on working conditions and methods. It extended the term of the contract to January 20, 1966.

93. On January 14, 1966, a collective bargaining agreement was executed by defendant and the unions providing for across-the-board increases for all employees covered by the agreement and certain fringe benefits.

94. On January 10, 1969, Corning and the union agreed upon and executed a new three-year collective bargaining agreement. That agreement provided for the installation of a new job evaluation plan called the Corning Glass Works Job Evaluation Plan (the CGW Plan), subject to ratification of that plan by the union membership.

95. The CGW plan was ratified on January 17, 1969, and was installed effective January 20, 1969.

96. On January 10, 1969, a new collective bargaining agreement was executed by Defendant and the union which provided for increases for all hourly-rated employees and certain fringe benefits.

97. Under the agreement of January 10, 1969, all employees received a payment, commonly called "retroactivity pay", which was calculated in accordance with an agreed upon formula.

(a) This payment did not compensate employees for work performed on a particular job.

(b) The amount was determined by an arbitrary calculation based upon:
[rate of job held on January 12, 1969 x 8%, adjusted to nearest ½ cent] or [20 cents per hour], whichever is greater, x number of hours paid between November 4, 1968, through January 12, 1969

plus

the job evaluation adjustment for the employee's rate for the job held on January 19, 1969 x the sum of hours paid from November 11, 1968, through January 19, 1969

equals

total retroactivity pay

98. No employee received a wage increase under the agreement of January 10, 1969, until the contract was executed on January 10, 1969.

99. Prior to January 20, 1969, the CGW Plan was not in effect with respect to any jobs in the Wellsboro plant.

100. The rates paid to employees in accordance with job evaluations arrived at under the CGW Plan were first paid

subsequent to the execution of the collective bargaining agreement of January 10, 1969.

101. Under the CGW Plan as agreed upon and installed, all employees hired after January 20, 1969, are paid the evaluated rate for that job without regard to whether they work at night or during the day or whether they are men or women.

102. Under the agreement, all employees hired after January 20, 1969, as Inspector-Packers, Frost Light Inspectors, Positioner-Inspectors, and Quality Inspectors, are to be paid the job evaluated rate, regardless of sex and regardless of the shift worked.

103. Under the Plan and the January 10, 1969, collective bargaining agreement the job evaluated rates of the jobs of Inspector-Packer, Frost Light Inspector, Positioner-Inspector, and Quality Inspector were $2.60, $2.745, $2.60 and $2.79, respectively. The job evaluated rates for these jobs are paid to all persons employed on the day shifts regardless of their date of hire.

104. Under the agreement of January 10, 1969, Defendant agreed to pay all employees, regardless of sex, who were employed on or before January 20, 1969, the maximum hourly rates of $2.775, $2.835, $2.775 and $2.965, when employed as Inspector-Packers, Frost Light Inspectors, Positioner-Inspectors, and Quality Inspectors, respectively, on the steady night shift. Such rates were subject to improvement, along with the rates of all other jobs covered by the agreement, by agreed upon periodic wage increases.

105. Prior to the agreement of January 10, 1969, the maximum hourly wage rates, on the steady night shift, for

the jobs of Inspector-Packer, Frost Light Inspector, Positioner-Inspector, and Quality Inspector were $2.55, $2.605, $2.55 and $2.725, respectively.

106. The maximum wage rates for Inspector-Packer, Frost Light Inspector, Positioner-Inspector, and Quality Inspector under the January 10, 1969, agreement were higher than either the maximum day, afternoon, or night rates for those respective jobs prior to that agreement.

107. On January 20, 1969, when the CGW Plan was installed, the job evaluation rates for Inspector-Packer, Frost Light Inspector, Positioner-Inspector, and Quality Inspector were lower than the rates being paid to employees working on these jobs on the night shift.

108. Since 1944 every collective bargaining agreement has contained Article 15, Section 2, which provides:

> When job evaluation * * * results in wage brackets lower than prevailing rates than paid for the job it is not the intention of the company to reduce the prevailing base rates of employees currently working on such jobs.

109. Paragraph 9 of Schedule A of the installation rules of the CGW Plan provides:

> Any employee who as of the date of the installation of the CGW Hourly Job Evaluation Plan is an employee of the Wellsboro plant covered by the terms of the Basic Agreement and who thereafter by operation of rights under the Basic Agreement continues to hold or takes any of the jobs specified on the [night] shift shall receive the rate which he or she would have re-

ceived for that work under pre-existing practices. Those jobs being:

Inspector-Packer (N)
Positioner-Inspector (N)
Frost Light Inspector (N)
Quality Inspector (N)

Persons who become employees after the date of installation shall be paid the evaluated rate when they perform work on any of the evaluated jobs.

110. The explanation of "pre-existing practices" in paragraph 9 of Schedule A to the installation rules of the CGW plan is the same as that given in Corning's answer I filed January 26, 1971, in *Hodgson* v. *Corning Glass Works*, USDC WD N. Y., Civil No. 1967-29, namely that it refers to "an extension of Corning's past practice that, regardless of the fact that a new system of job evaluation was being installed that none of the people who were employed at the time of the agreement would receive less money for performing a job subsequent to the agreement than they had received prior to the agreement."

111. The rates paid under paragraph 9 are called "red-circle" rates by Corning.

112. Under the agreement of January 10, 1969, male and female inspectors employed on or prior to January 20, 1969, receive a lower hourly base rate if and when they move from an inspection classification on the night shift to the same inspection classification on the day shifts. The rates on both the steady night shift and the day shifts, subsequent to the agreement of January 10, 1969, are higher than the highest rate paid for work on either shift prior to the agreement of January 10, 1969.

113. Employees with service dates after January 20, 1969, receive the same base hourly rate on all shifts when classified as Inspector-Packers, Frost Light Inspectors and Quality Inspectors.

114. The maximum base wage rate of the job of Inspector-Packer and Positioner-Inspector on the day shift immediately *prior* to the agreement of January 10, 1969, was $2.34 per hour.

115. The maximum base wage rate of the job of Frost Light Inspector on the day shift immediately prior to the agreement of January 10, 1969, was $2.44 per hour.

116. The maximum base wage rate of the job of Quality Inspector on the day shift immediately prior to the agreement of January 10, 1969, was $2.49 per hour.

117. From January 20, 1969 through December 28, 1970, (through to only June 28, 1970 for night jobs) the distribution of male and female inspectors has been as follows (using the initials of the jobs in issue):

	Seniority	*I-P*		*P-I*		*F-L-T*		*Q-I*	
		Days	*Nights*	*Days*	*Nights*	*Days*	*Nights*	*Days*	*Nights*
Women	1/20/69 or before	160	31	5	0	7	0	23	5
Men	1/20/69 or before	4	19	0	0	0	4	0	5
Men	After 1/20/69	22	2 (for a total of 5 weeks)	0	0	0	0	0	0
Women	After 1/20/69	1	4 (for a total of 12 weeks)	0	0	0	0	0	0

118. Eighteen women and seven men worked as Inspector-Packers on the steady night shift on the week ending August 15, 1971.

119. Two women and three men worked as Quality Inspectors on the steady night shift on the week ending August 15, 1971.

120. From October 16, 1966, through December 28, 1969, 29 women and no men were moved from the steady night shift as Inspector-Packers to the day shifts as Inspector-Packers at a lower base hourly rate than they had received on the steady night shift.

121. Plaintiff does not claim, at this time, that Defendant is in violation of the Equal Pay Act with respect to employees hired subsequent to January 20, 1969, because so few employees in this category have worked in the jobs in issue that the net effect of Corning's pay practices as to them cannot be determined.

122. After an investigation, the complaint in this case was filed on October 2, 1969.

/s/ RICHARD F. SCHUBERT
Solicitor of Labor

/s/ LOUIS WEINER
Regional Solicitor

/s/ ISABELLE R. CAPPELLO
/s/ STEPHEN K. ERNST
Attorneys for Plaintiff

/s/ JOHN G. WAYMAN
/s/ SCOTT F. ZIMMERMAN
Attorneys for Defendant

[Filed, January 3, 1972]

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STIPUATIONS OF FACTS TO WHICH DEFENDANT EITHER MAKES OBPECTION OR WITHDRAWS A PRIOR OBJECTION.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

(Case title omitted in printing.)

5.1 (a)

(As Revised At Trial)

Pursuant to Paragraph 3.1 of this Court's Pre-Trial Order of June 3, 1971, the parties to the above cause stipulated to all uncontested facts. Those stipulations to which Defendant raised no objection were submitted at the pre-trial conference on October 5, 1971, by Plaintiff as pleading 5.1 "Stipulation of Facts". Those stipulations concerning which Defendant raised objection as to admissibility were not included in pleading 5.1 but were contained in a pleading submitted at the October 5 pre-trial conference and entitled 5.1(a) "Objections by Defendant to Certain Stipulations of Facts".

On October 12, 1971, Defendant filed a "Brief in Support Of Both General and Specific Objections By Defendant To Certain Proposed Stipulations Of Fact And To Admission Into Evidence Of Plaintiff's Interrogatories, Requests For Admission, Depositions, And The Answers Thereto."

At the trial of this case certain of the stipulations contained in pleading 5.1(a) were either modified or eliminated by agreement of the parties. At the trial the Court accepted the stipulations in pleading 5.1 (a) subject to such modification agreed to by the parties in open court and subject to Defendant's objections raised in 5.1(a), its brief, and at the trial. (Tr. Vol. II, 177) At the conclusion of the trial

the Court directed Defendant to restate its objections to the documentary material submitted by Plaintiff. (Tr. Vol. IV, 89-92)

The following stipulations contained in the original pleading 5.1(a) were eliminated at the trial by agreement of the parties at the indicated points in the transcript:

Stipulation D-34, on page 11 of the original pleading 5.1(a), was eliminated at Tr. Vol. II, 177-180.

Stipulation P-49, on page 11 of the original pleading 5.1(a), was eliminated at Tr. Vol. II, 180-181.

Stipulation P-51, on page 12 of the original pleading 5.1 (a), was eliminated at Tr. Vol. II, 182.

Stipulation P-121, on page 14 of the original pleading 5.1(a), was eliminated at Tr. Vol. II, 184.

Stipulation P-145, on page 14 of the original pleading 5.1(a), was eliminated at Tr. Vol. II, 183.

Stipulation P-162, on page 14 of the original pleading 5.1(a), was eliminated at Tr. Vol. II, 183.

Stipulation P-67, on page 20 of the original pleading 5.1(a), was eliminated at Tr. Vol. IV, 69.

Stipulation P-61, on page 20 of the original pleading 5.1(a), was eliminated at Tr. Vol. II, 185.

Stipulation P-75, on page 22 of the original pleading 5.1(a), was eliminated at Tr. Vol. IV, 69.

In an attempt to expedite the ultimate determination of the above cause, Defendant has decided to drop its objection

to any of the stipulations contained in the original pleading 5.1(a) which were objected to therein only on the grounds of relevance and materiality. Although Defendant has not altered its opinion as to the relevance and materiality of the various subject matters to which those stipulations relate, this Court, sitting in equity, can properly evaluate the weight to be given the facts set forth in those stipulations. Further, considerable live testimony has been admitted as relevant in areas covered by these stipulations. If that testimony is to be deemed relevant, these stipulations will make it comprehensible.

Below listed are those stipulations to which Defendant raised an objection in the original 5.1(a) preceded by a statement as to the grounds, if any, for a present objection to that stipulation or a statement that no objection is made to the admissibility of that stipulation.

Stipulation P-10 is stated as amended by the parties, in regard to the spelling of "area", at Tr. Vol. IV, 69. Stipulation P-197 is stated as amended by the parties, in regard to the insertion of "P-11" in line 6 thereof, at Tr. Vol. IV, 70. Stipulation P-13 is stated as amended by the parties, in regard to the spelling of "located", at Tr. Vol. IV, 70. Stipulation P-65 is stated as amended by the parties at Tr. Vol. II, 182. Stipulation P-66 is stated as amended by the parties at Tr. Vol. II, 182.

Stipulation P-112 is stated as amended by the parties at Tr. Vol. II, 188-90. Stipulation P-113 is stated as amended by parties at Tr. Vol. II, 191. Stipulation 119.1 is stated as amended by the parties at Tr. Vol. IV, 72. The other stipulations are stated as they were in the original pleading 5.1(a).

are objected to on the grounds that they are not relevant or material to the subject matter of Plaintiff's cause of action; they are inadmissible under the "work product" privilege; they involve mental impressions, conclusions, opinions, and/or legal theories of an attorney and other representatives of the Defendant concerning matters which are the subject of the present litigation; finally, they involve hearsay evidence.

* * * *

P-6 On May 4, 1964, Charles Francik, an attorney employed by Defendant, sent advice and material to Wellsboro officials, as well as to officials of other plants concerning the Equal Pay Act and its implications and to serve as guidance in determining possible Equal Pay Act violations and providing a method by which these could be recorded. Any possible violations were to be referred back to officials in Corning, New York. The plant managers were advised to have their personnel supervisor review the material with the plant industrial engineer. Richard Marks, who at that time was personnel supervisor of the Bradford plant, could not recall having seen the material which was sent to the Bradford plant manager.

P-10 On July 14, 1964, F. P. Hunt, Vice President of Industrial Relations, sent a memorandum entitled "Compliance with the Equal Pay Act of 1963" to all Defendant's plant managers, including the Wellsboro plant, to various officials in Corning, New York, and to its Washington, D. C., representative. Mr. Hunt asked to be advised of any

contacts made by representatives of the Wage and Hour Division of the Department of Labor so that activity in this area could be coordinated.

Stipulations P-11, P-196, and P-197

are objected to on the grounds that they are not relevant or material to the subject matter of Plaintiff's cause of action; they involve statements which are conclusions and/or opinions as to law and/or fact; finally, they involve hearsay evidence.

• • • •

P-11 On January 24, 1966, John E. Kilburn, an investigator for the Wage and Hour Division of the Department of Labor met with several representatives of Defendant, including John W. Randall, at that time Manager of Employee Relations, Corning plants, J. R. Palme, Assistant to Director of Industrial Relations, and John G. Wayman, counsel for Defendant. Mr. Kilburn stated that the purpose of the meeting was to advise Defendant of the Department of Labor's position that violations of the Act's equal pay provisions were occurring at its main plant in Corning, New York, in that female inspectors in several classifications on the day and afternoon shifts were being paid a lower base hourly rate than male inspectors in the same classifications on the steady night shift. Mr. Kilburn stated that the Department of Labor's position was that the base hourly rates of the women on the day and afternoon shifts should be raised to that of the men and restitution paid. Mr. Kilburn advised them that it was the Department of Labor's position that compensation for working

at night was already paid to the men in the form of the plant wide shift differential paid to all production employees under the collective bargaining agreement, and that working at night did not explain the higher base hourly rate paid to the men.

P-196 Between January 24, 1966, and January 18, 1967, attorneys for Corning and the Department of Labor conferred about the alleged violations at the main plant.

P-197 On January 18, 1967, a conference was held at the United States Department of Labor in Washington, D. C., concerning the alleged violations of the Equal Pay Act by Corning Glass Works at its main plant in Corning, New York, which were the subject of the January 24, 1966, conference with Mr. Kilburn set forth *supra,* no. P-11. Representing the Corning Glass Works were John Wayman of Reed, Smith, Shaw & McClay, counsel, Michael E. Palatas, Manager of Employee Relations, and Paul Ohliger, Assistant to the Director of Industrial Relations. Representing the Department of Labor were Clarence Lundquist, Administrator of the Wage and Hour Division, Bessie Margolin, Associate Solicitor, James Miller, Deputy Associate Solicitor, and Francis LaRuffa and Isabelle Cappello, attorneys. Also present were officials and counsel for the International American Flint Glass Workers and its Local 1000. At this meeting the officials of Corning Glass Works were informed that compliance with the Equal Pay Act could only be achieved by raising the base hourly rates of all Class C, B, TV and General TV inspectors in A Factory, B & C Factory, and Pressware to the rate being paid to the men and women inspectors so classified on the steady night shift in these plants.

Additional Stipulations of Facts.

Stipulation P-12

is objected to on the grounds that it is not relevant or material to the subject matter of Plaintiff's cause of action. [The disposition of P-12 is related to the court's decision regarding P-11 on page 6, *supra*.]

• • • •

P-12 On January 26, 1967, after a series of conferences attempting to settle the matter had failed, Plaintiff filed a complaint in the United States District Court for the Western District of New York alleging the aforesaid as violations of the Act.

Stipulation P-13

is objected to on the grounds that it is not relevant or material to the subject matter of Plaintiff's cause of action; it involves statements which are conclusions and/or opinions as to law and/or fact; finally, it involves hearsay evidence.

• • • •

P-13 During the trial of the above case, on July 9, 1969, F. Philip Hunt, the Defendant's Vice President who was in charge of industrial relations, testified that to his knowledge two other branch plants had situations similar to that being litigated. One of the plants named was the Wellsboro, Pennsylvania, plant. The other named was the one located in Central Falls, Rhode Island.

Additional Stipulations of Facts.

Stipulations P-52, P-53, P-54, D-40, D-41, P-55, P-56, P-105, P-106, P-123, P-124, and P-171

(all of which essentially involve the Corning job evaluation plan called the "CGW Plan"), are objected to on the grounds that they are not relevant or material to the subject matter of Plaintiff's cause of action; they involve conclusions and/or opinions as to law and/or fact; finally, they involve hearsay evidence.

* * * *

P-52 Under the CGW Plan the job descriptions are written and evaluations are made by the Wellsboro plant industrial engineering department. They are then submitted to the central industrial engineering group in Corning, New York, for approval and correlation with similar jobs throughout the Company plants.

P-53 Under the CGW Plan, each job is supposed to be reviewed once a year to determine whether a change has occurred.

P-54 The factors considered in evaluating a job under the CGW Plan are: Manual and visual effort; manual accuracy; manual complexity; job knowledge: responsibility for problem solving, materials and/or product, equipment and/or tools and direction of others; surroundings and hazards.

D-40 The CGW Plan does not take into account whether the jobs are performed on a steady night shift or on day shifts.

D-41 Under the CGW Plan the job descriptions and evaluations for the respective inspection jobs here in issue have been the same on all shifts since first made by Corn-

ing's job analysts in 1964. The job description and evaluation for the job of Inspector-Packer was typed on March 13, 1964, and was made effective in unchanged form on March 7, 1969. The job description and evaluation for the job of Positioner-Inspector was typed on March 13, 1964, and was made effective in unchanged form on March 10, 1969. The job description and evaluation for the job of Frost Light Inspector was typed on November 9, 1964, and was made effective in unchanged form on March 7, 1969. The job description and evaluation for the job of Quality Inspector was typed on March 13, 1964, changed pursuant to combining with the job of Quality Control Inspector and retyped on February 27, 1968, and made effective as retyped on March 7, 1969.

P-55 The evaluated points for the inspection jobs in issue and the job of Hiker under the CGW Plan are as follows:

	I-P	*P-I*	*F-L-T*	*Q-I*	*Hiker*
Effort:					
Manual	60	60	70	60	85
Visual	45	45	75	75	45
Skill:					
Manual accuracy	125	125	135	135	125
Manual complexity	105	105	105	105	105
Job knowledge	115	115	115	120	115
Responsibility for:					
Problem solving	155	155	155	170	155
Direction of others	0	0	0	0	0
Material or product	110	110	120	145	110
Tools or equipment	100	105	100	105	100
Working conditions:					
Surroundings	30	40	55	40	40
Hazards	40	40	40	40	55
	885	900	970	995	935

Additional Stipulations of Facts.

P-56 The installation rules of the CGW Plan provide that employees hired prior to January 20, 1969, who work as steady night shift Inspector-Packers, Frost Light Inspectors and Quality Inspectors receive a higher base hourly rate than employees working on these jobs on the day shifts. It is in addition to the plant-wide shift differential paid for night work. It is referred to as a "red circle" rate.

P-105 In measuring manual effort under the CGW Plan, infrequent and unusual effort are not considered and tasks enumerated are not exhaustive of all duties performed but are only examples of the type of work performed.

P-106 The job description of a Hiker does not list moving a bulk packer as a typical task performed.

P-123 The Inspector-Packer job description was first drafted and a trial evaluation was drafted under the CGW Plan on March 13, 1964. That job has always been described the same on all shifts and evaluated at the same points as to all factors considered which include skill, effort, responsibility and working conditions.

P-124 Under the CGW Plan each hourly job classification is reviewed once each year or when any change occurs. The job analyst himself checks the job and talks to the employees performing it, the supervisor and the departmental union representative, if there is one. The job review is then submitted to the Corning, New York, job evaluation department where it is also reviewed.

P-171 The job description for Hiker effective January 20, 1969, reads as follows:

Additional Stipulations of Facts.

"DESCRIPTION Performs a variety of material handling duties, working by hand or using a hand lift truck as required. This work includes such duties as: Services inspection, loading, and packing positions: opens hampers of ware, places on stand or conveyor or dumps into hopper or on belt. Makes up hampers using hand tape machine, supplies hampers, internal packing material, ornament caps, etc., to packing positions, weighs filled hamper, adjusting count as necessary, seals, and palletizes. Moves pallets in and out, using hand trucks as required.

Moves tote boxes to loading position. Elevates box, observes filling, lowers box and distributes bulbs as as required. Moves box to scale and adds or removes bulbs to balance.

Identifies ware by placing proper information in tape machine type roll or by attaching stickers, tags, etc. to hampers, pallets, or tote boxes. Maintains count of pallets loaded and reports to supervisor.

Prepares working areas positioning stands, tables, conveyors, etc., adjusting bulb guides, tape machine, etc. Sweeps and cleans area, removes cullet cans, etc., maintaining good housekeeping conditions at all times.

Removes splashed frost trays from run, washes, and returns to run. Changes tray types as required.

Makes trips to storeroom for supplies, trips to various plant areas to deliver supplies, etc., as directed.

Maintains good housekeeping conditions in working area."

Additional Stipulations of Facts.

Stipulations P-48, P-50, P-62, P-64, P-65, P-66, P-122, and P-170

(all of which essentially involve the job evaluation plan called the "SJ&H Plan"), are objected to on the grounds that they are not relevant or material to the subject matter of Plaintiff's cause of action; they involve conclusions and/or opinions as to law and/or fact; finally, they involve hearsay evidence.

P-48 Under the SJ&H Plan, the plant industrial engineer wrote or supervised the writing of job descriptions. They were then presented to the central industrial engineering group in Corning, New York, who evaluated them.

P-50 The evaluated points for the inspection jobs in issue and the job of Hiker under the SJ&H Plan were as follows, using the initials of the inspection jobs:

	I-P *I-P-N**	*P-I* *P-I-N**	*F-L-I* *F-L-T-N**	*Q-I* *Q-I-N**	*Hiker*
Schooling	40	40	40	50	20
Training	80	80	100	120	60
Skill	30	30	30	45	30
Versatility	20	20	20	40	20
Knowledge	30	30	45	60	30
Responsibility	50	50	50	100	50
Surroundings	0	0	20	0	10
Hazards	0	15	15	0	15
Total	250	265	320	415	235

* "N" stands for "Night"

P-62 As an example, the "male" and "female" schedules effective November 2, 1964, provide the following sampling of maximum rates paid for the jobs evaluated under the SJ&H Plan as indicated.

Additional Stipulations of Facts.

Jobs Evaluated	*Points*	*"Female" schedule*	*"Male" schedule*	*Differential*
Up to	160	$2.03	$2.185	15½¢
165-	235	-	2.235	
	235	2.07	2.235	16½¢
	615	2.45	2.805	35½¢
400-	440	-	2.45	
605-	630	-	2.805	

P-64 Since prior to June 11, 1964, the job of Inspector Cap Pack has been performed only by women on a rotating shift basis. The women performing this job on a rotating basis have been paid the same base hourly rate regardless of shift. The job of Inspector Cap Pack Nights was last performed on a steady night shift, on December 2, 1963, and when it was performed the base hourly rate was higher than that being paid for the job of Inspector Cap Pack. The job descriptions for both were the same and the point evaluations the same under the SJ&H Plan. Only men performed the job of Inspector Cap Pack Nights. Men working on the steady night shift inspection jobs performed additional duties requiring greater effort than the day shift inspection jobs, but these jobs were neither described nor evaluated under the SJ&H Plan since that Plan did not take effort into account.

P-65 Since prior to June 11, 1964, the job of Ceramic Machine Loader has been performed only by women on all three shifts, on a rotating shift basis. The job of Ceramic Machine Loader Nights has not been manned since October 17, 1960. The women performing this job on a rotating basis are paid the same base hourly rate regardless of shift. When the job of Ceramic Machine Loader Nights

was manned it paid a higher base hourly rate than the job of Ceramic Machine Loader. The job descriptions for both and the point evaluations were the same. Only men were assigned to perform the job of Ceramic Machine Loader Nights. The SJ&H Plan did not evaluate either manual or visual effort or give weight to the time of day worked.

P-66 Since prior to June 11, 1964, the job of Silver and Lacquer Machine Loader has been performed by women on a rotating shift basis. The women are paid the same base hourly rate regardless of shift. The job of Silver and Lacquer Machine Operator Nights was last performed on the steady night shift on December 2, 1963, and when performed it paid a higher base hourly rate than the job of Silver and Lacquer Machine Operator. The job descriptions for both and the point evaluations were the same under the SJ&H Plan. Only men were assigned to perform the job of Silver and Lacquer Machine Loader Nights.

P-122 Under the SJ&H Plan job descriptions were supposed to be kept up to date. It was not done at regular periods.

P-170 From June 11, 1964, to January 18, 1965, the SJ&H job description for a Hiker was as follows:

"*PRIMARY FUNCTION:*

Under the supervision of Shift Foreman Packing and Frosting, performs a wide variety of jobs — e.g., making hampers, sealing, transporting ware, etc.

EQUIPMENT USED:

Hand truck, tape sealing machine, scales, skids, conveyor, wings, hand stamp, forming stand.

MATERIAL USED:

Hampers, tape, bulbs, twine, formica plows, warehouse delivery slip, glue, letters and numbers, water, and broom.

WORK PERFORMED:

Typical examples of work performed as assigned by superior:

1. Assembles hampers, tapes bottom flaps, inserts packing materials required, and places on overhead conveyors. Removes excess tape from hampers and discards old or unusable hampers.
2. Sets up type for taping machine, indicating such information as: ware type, pieces per hamper, shift, date and hour.
3. Tapes flaps of filled hampers, carries and places on skids; ties top layer of hamper with twine, attaches warehouse delivery slip, and transports loaded skid — using hand lift truck — to assigned area. (End of shift, departmental copy of warehouse delivery slip given to Foreman.)
4. Weighs hamper load if bulbs are on scales, removing or adding bulbs, adjusting to weight requirement.
5. Remove empty trays from conveyor (frosting area) places on hand truck, and transports to designated area.
6. Cleans or prepares working area, positioning tables, roller conveyors, sweeps floor, etc., as directed.

7. Performs miscellaneous jobs — e.g., minor adjustment to taping machine, adjusting wings on conveyor belts, etc., as directed.

8. Removes cullet cans from packing and capping area.

9. Keeps machine loaders supplied with ware."

Stipulation P-58

is objected to on the grounds that it is not relevant or material to the subject matter of Plaintiff's cause of action; it involves statements which are conclusions and/or opinions as to law and/or fact; finally, it involves hearsay evidence.

• • • •

P-58 Perry Seamans, the Wellsboro plant industrial engineer from 1951 to 1956, and from 1961 to present, testified that he did not know why the steady night shift employees performing these inspection jobs have been paid a higher rate than the employees performing these jobs on the day shifts except that the practice is a tradition.

Stipulation P-72

is objected to on the grounds that it is basically repetitious of matter covered in Paragraphs 8 and 9 of "5.1 Stipulation of Facts", and any non-repetitious material is not relevant or material to the subject matter of Plaintiff's cause of action.

• • • •

P-72 Prior to October 16, 1966, only men worked on the steady night shift. In several instances the job titles were the same except the designation "Nights" was added to the

steady night shift job. These jobs were Inspector-Packer, Positioner-Inspector, Frost Light Inspector, Quality Inspector, Quality Control Inspector, Inspector-Capper-Packer, Ceramic Machine Loader, Silver and Lacquer Machine Loader, and All Around Cafeteria Worker.

NO OBJECTIONS ARE MADE TO THE ADMISSIBILITY OF P-35, P-38, P-39, P-40, P-41, P-42, P-43, P-44, P-45, P-46, P-47, P-57, P-59, P-60, P-63, P-68, P-69, P-70, P-71, P-83, P-107, P-108, P-109, P-110, P-111, P-112, P-113, P-117, P-119.1, P-119.2, P-141, P-142, P-160 ALL OF WHICH HAD BEEN FORMERLY OBJECTED TO ON THE BASIS OF RELEVANCE AND MATERIALITY

P-35 The term "supplemental escalating shift differential" was originated for use in a situation involving litigation under the equal pay provisions of the Fair Labor Standards Act at Defendant's Corning, New York, plant to describe the higher base hourly rate paid to night shift inspectors.

P-38 Since October 20, 1947, Defendant has, at different times, had two job evaluation plans.

P-39 The first job evaluation plan was effective from October 20, 1947, to January 18, 1965, and was called the Stevenson, Jordan and Harrison Plan. It is referred to as the SJ&H Plan. The second and present one was installed on January 20, 1969, and is called the Corning Glass Works Plan and referred to as the CGW Plan.

P-40 Since 1951 the Wellsboro plant has had its own industrial engineer who is concerned with job evaluation, among other duties.

Additional Stipulations of Facts.

P-41 The purpose of job evaluation is to arrive at the proper rates for each job in relation to other jobs.

P-42 Job descriptions are written by job analysts. The work normally performed on a regular basis is supposed to be covered. Also covered are duties which require special skills but are performed only occasionally.

P-43 Duties that are unrelated to the primary job and are performed as a special assignment or a substitute for another employee, or because of an unusual temporary situation, are not included in the description.

P-44 The job description does not limit the foreman in making other work assignments to those in his department. The Company's regular procedure is supposed to be used to determine if the employee's rate of pay should be altered during this period.

P-45 For writing the job description, the foremen are the source of the original information. Duties are also discussed with the employees who are performing the job. The jobs are actually observed. Sometimes the union representative is consulted. After the job description is written it is taken to the foremen and union representative to check on whether the job has been properly described. The jobs are checked from time-to-time to ascertain whether changes need to be made in the description and evaluation.

P-46 Each job evaluation is submitted to a committee consisting of three union representatives which discusses them with the personnel director and the industrial engineer.

Additional Stipulations of Facts.

P-47 It is the responsibility of the foreman to inform the plant industrial engineer and his assistants if any changes take place in the work regularly performed. This responsibility is shared with the union committee.

P-57 Time of day worked has never been considered a factor in Defendant's job evaluation plans.

P-59 The first formal rate schedules for the Wellsboro plant were made effective October 20, 1947.

P-60 From October 20, 1947, to January 17, 1965, there was a practice or custom of maintaining "male" and "female" schedules for rate ranges and steps. Men and women were grouped on the "male" and "female" rate schedules according to wage group numbers and job evaluation points.

P-63 There were 13 jobs paid on the basis of the "female" rate schedule. The highest-rated one is Quality Inspector. Eight of these job titles appear on the "male rate schedule" with the designation "Night" after them. These jobs are Positioner-Inspector, Inspector-Packer, Inspector Cap Pack, Silver and Lacquer Machine Loader, Ceramic Machine Loader, Frost Light Inspector, All Around Cafeteria Workers and Quality Inspector.

P-68 Except for the "male" and "female" rate schedules effective November 19, 1962, the "male" and "female" rate schedules at the main plant in Corning, New York, and introduced into evidence in Plaintiff's Exhibits 59-66 and 68E-68Z in ***Shultz v. Corning Glass Works,*** WD N.Y., Civil No. 1967-29, are the same rate schedules in effect at Wellsboro.

Additional Stipulations of Facts.

P-69 "Male" and "female" rate schedules were eliminated as of January 18, 1965.

P-70 In converting the "male" and "female" rate schedules to one combined schedule the maximum rates for some jobs did not change, but, with respect to those jobs, some of the subordinate rates changed slightly. For example, the job of Inspector-Packer on the "female" rate schedule had been in wage group 5 at a maximum rate of $2.09 and it went into wage group 1 on the combined schedule at the same $2.09 maximum rate. The job of Inspector-Packer Nights on the "male" rate schedule had been in wage group 3 at a maximum rate of $2.34 and went into wage group 5 on the combined schedule at the same $2.34 maximum rate.

P-71 Until October 16, 1966, Defendant maintained separate "male" and "female" seniority lists.

P-83 In the event of a force reduction, generally speaking, plant seniority controls. Under the system of job entitlement an employee has no rights to a job for the first 84 days. Therefore, if there is a force reduction in a job, employees on the job for less than 84 days go first from that job on the basis of plant seniority.

P-107 All employees in all job classifications are available to perform other jobs having different work requirements.

P-108 Generally the female employees who have performed and are performing the job of Inspector-Packer since October 2, 1966, have been and are available for and at times have been assigned to other jobs involving a great

variety of duties, some of which require greater effort, skill, and responsibility and are performed under different working conditions than the job of Inspector-Packer.

P-109 Generally the female employees who have performed and are performing the job of Positioner-Inspector since October 2, 1966, have been and are available for and at times have been assigned to other jobs involving a great variety of duties, some of which require greater effort, skill, and responsibility and are performed under different working conditions than the job of Positioner-Inspector.

P-110 Generally the female employees who have performed and are performing the job of Frost Light Inspector since October 2, 1966, have been and are available for and at times have been assigned to other jobs involving a great variety of duties, some of which require greater effort, skill, and responsibility and are performed under different working conditions than the job of Frost Light Inspector.

P-111 Generally the female employees who have performed and are performing the job of Quality Inspector since October 2, 1966, have been and are available for and at times have been assigned to other jobs involving a great variety of duties, some of which require greater effort, skills, and responsibility and are performed under different working conditions than the job of Quality Control and Quality Inspector.

P-112 On the day shifts male inspectors who are called upon to perform the job of Hiker carry a multiple rate and receive the rate for the job of Hiker when performing the

job of Hiker. This is also true of any male inspectors on the night shift with seniority after January 20, 1969. It is not true of male inspectors on the night shift hired prior to January 20, 1969, who continue to receive their inspection rate even when performing the additional duties described in paragraphs 34, 35, 41, 45d, and 46.

P-113 Multiple rates are paid to employees when it is anticipated that the employee will move periodically back and forth between two or more job classifications.

P-117 During the workweek which included June 11, 1964, there were 21 Inspector-Packers Nights on the night shift, all of whom were men, and 40 Inspector-Packers on the two day shifts, all of whom were women.

P-119.1 Employees with multiple rates receive the rate for the job they are actually scheduled to perform for a particular day unless they are assigned to a higher-rated job.

P-119.2 An employee carrying a multiple rate, if temporarily assigned to a lower-rated job than the job for which the employee is scheduled for a particular day, is paid at the rate for the higher-paid job.

P-141 During the workweek including June 11, 1964, there were 7 Frost Light Inspectors on the day shifts all of whom were women.

P-142 During the workweek which included June 11, 1964, there were 5 Frost Light Inspectors on the night shift, all of whom were men.

P-160 During the workweek which included June 11, 1964, there were 5 Quality Inspector Nights on the night shift, all of whom were men, and 15 Quality Inspectors on the day shifts, all of whom were women.

Respectfully submitted,

/s/ SCOTT F. ZIMMERMAN
/s/ WALTER P. DEFOREST
REED, SMITH, SHAW & McCLAY

Counsel for Defendant, Corning Glass Works.

December 10, 1971

[Filed, January 11, 1972]

TRANSCRIPT OF PROCEEDINGS, OCTOBER 18, 1971.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

(Case title omitted in printing.)

Lewisburg, Pennsylvania, October 18, 1971.

Before: Honorable Malcolm Muir.

Appearances:

For the Plaintiff: Isabelle R. Cappello, Esq., 609-6th Place, S. W., Washington, D. C.

Stephen K. Ernst, Esq., 1505 Jefferson Building, 1015 Chestnut Street, Philadelphia, Pennsylvania 19107.

For the Defendant: Scott F. Zimmerman, Esq., 747 Union Trust Building, P. O. Box 2009, Pittsburgh, Pennsylvania 15230.

John G. Wayman, Esq.

Walter P. DeForest, Esq.

Robert F. Cox, Cox, Wilcox, Owlett & Lewis, 19 Central Ave., Wellsboro, Pa. 16901.

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[I-68] The Court: All right. Thank you.

I would like to look now at the plaintiff's trial brief, page 2, second full paragraph, last sentence. Where is there authority for that proposition?

Mrs. Cappello: The last full paragraph?

The Court: There are two full paragraphs on that page, the last sentence. "It is the Secretary's position that compliance as to women after October 16 does not achieve the statutory aim of correcting discriminatory wage practices as to all workers and that Corning's violations took on

another aspect when after October 16, 1966 it assigned men to perform the traditionally female job at the lower base salary rate."

What is the authority for that in the Act, or outside the Act?

Mrs. Cappello: The express proviso against reducing rates, your Honor—

The Court: Let me stop you right there. Where is there a reduction of rate as to a woman?

Mrs. Cappello: As to a woman, your Honor?

The Court: Yes as a woman if she went to a higher rate?

[I-69] Mrs. Cappello: Well not to the ones that went to the higher rate, but on October 15, 1966 all the women were entitled to the higher rate, your Honor, under the Act. Then when defendant opened up the jobs on the night shift to the women on October 16, it couldn't reduce the rates of all the women who didn't go on the night shift. They had all become entitled to the higher rate under the Act. And you then can't reduce the rates and just say, well just you women who go up on the night shift are going to get the higher rate. They were already entitled to the higher rate, base salary rate, all of them.

The Court: But no woman who stayed on the day rate in fact got a reduction? She didn't get what she said she was entitled to but she never got a reduction.

Mrs. Cappello: The statute said she's got to be raised.

The Court: I understand. But she didn't get raised?

Mrs. Cappello: No, but she should have been raised.

The Court: I understand that.

Mrs. Cappello: Therefore she has to be at that higher rate under the statute, and therefore on October 16, 1966 you cannot go in and reduce her rate. She is already

[I-70] entitled to the higher rate because she was performing equal work with the men on the night shift.

The Court: Well, I understand your position there, but in fact she never did get a reduction in any dollars, did she?

Mrs. Cappello: In effect she would have gotten a reduction if you accept Corning's position, your Honor; because if you accept their position—if you agree with us that they were violating the Act up to October 16, 1966, and therefore they were all entitled to the higher rate, if you then adopt defendant's position that they came into compliance on October 16, the women are going to have their rate reduced on the day and afternoon shift.

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TRANSCRIPT OF PROCEEDINGS, OCTOBER 19, 1971.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

(Case title omitted in printing.)

Lewisburg, Penna.
October 19, 1971.

Before: Honorable Malcolm Muir.

Appearances:

For the Plaintiff: Isabelle R. Cappello, Esquire, 609 6th Place, S. W., Washington, D. C., and Stephen K. Ernst, Esquire, 1505 Jefferson Building, 1015 Chestnut Street, Philadelphia, Penna. 19107.

For the Defendant: Scott F. Zimmerman, Esquire, 747 Union Trust Bldg., P. O. Box 2009, Pittsburgh, Penna. 15230.

John G. Wayman, Esquire.

Walter P. DeForest, Esquire.

Robert F. Cox, Cox, Wilcox, Owlett & Lewis, 19 Central Ave., Wellsboro, Pa. 16901.

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[II-35] RE-CROSS EXAMINATION by Mr. Zimmerman:

Q. Did the S J & H Plan include among the factors evaluated the time of day worked. In other words, the fact that a job was performed on the steady night shift? A. The evaluation?

Q. Yes. A. No.

Q. Or under the S J & H Plan? [II-36] A. No.

Q. Or under the CGW Plan? A. No.

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TRANSCRIPT OF PROCEEDINGS, OCTOBER 20, 1971.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

(Case title omitted in printing.)

Lewisburg, Penna.
October 20, 1971

Before: Honorable Malcolm Muir.

Appearances:

Isabelle R. Cappello, Esquire, 609 6th Place, S. W. Washington, D. C., and Stephen K. Ernst, Esquire, 1505 Jefferson Building, 1015 Chestnut Street, Philadelphia, Penna. 19107.

For the Defendant: Scott E. Zimmerman, Esquire, 747 Union Trust Building, P. O. Box 2009, Pittsburgh, Penna. 15230.

John G. Wayman, Esquire.

Walter P. DeForest, Esquire.

Robert F. Cox, Cox, Wilcox, Owlett & Lewis, 19 Central Ave., Wellsboro, Pa. 16901.

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[III-196] Mr. Zimmerman: I will call Dr. Paul Lehoczky.

DR. PAUL N. LEHOCZKY, a witness called, being duly sworn, testified as follows:

Direct Examination:

Mrs. Cappello: May we have Mr. Zimmerman state the purpose for the testimony?

The Court: Yes.

Did you hear what Mrs. Cappello asked?

Mr. Zimmerman: She asked me to make an offer of proof I believe, Your Honor.

The Court: Yes.

Mr. Zimmerman: Your Honor, I offer to prove through Dr. Lehoczky that working on the steady night shift [III-197] is working under substantially different working conditions than working on day shift and prove the basis for his opinion in that respect.

Mrs. Cappello: We cannot stipulate that.

The Court: All right.

Mr. Zimmerman: Your Honor, I assume that the stipulation which we have entered into with respect to the qualifications of the witness, of this witness obviate the need of going into that in detail with him.

The Court: I was not aware that the Government had stipulated to—

Mrs. Cappello: We didn't, Your Honor, but Mr. Lehoczky testified in the Corning Glass Works New York trial and we were satisfied that he is competent in the field of job evaluation and I certainly would not dispute his qualifications there. I am not sure—I suppose since working conditions is a part of the

job evaluation program we would not challenge his credentials.

The Court: All right.

Mr. Zimmerman: I would like to make an offer of qualifications in the event that Plaintiff is unable to stipulate to this offer I will then put it in through the witness.

The Court: All right.

[III-198] Mr. Zimmerman: Dr. Lehoczky is an Emeritus Professor in Industrial Engineering at Ohio State University. He has been with Ohio State University since 1928 in various teaching capacities and for twenty years was Chairman of the Department of Industrial Engineering.

His teaching experience at Ohio State was concentrated in work measurement including incentives in job evaluation and time studies. He is also a Registered Professional Engineer in Ohio and a Professional Labor Management Dispute Arbitrator.

During World War II the National War Labor Board, Fifth Region, used Dr. Lehoczky as their panel chairman in over fifty cases and as a technical expert to evaluate certain requests by industry and labor to find out whether or not the Government's hold-the-line order should be vacated in certain instances.

Later on Dr. Lehoczky served for several years as a Commissioner of Conciliation for the United States Conciliation Service for technical matters. He has also arbitrated labor management disputes, over four thousand of these in the last twenty-five or

thirty years. Most of these are technical job evaluation matters.

Dr. Lehoczky was also a member of the Three-Man Taft Hartley Board appointed by President Eisenhower to [III-199] investigate the 1959-1960 steel strike.

Mrs. Cappello: I didn't quarrel with his qualifications.

Mr. Zimmerman: I assume then that we have a stipulation on that question?

Mrs. Cappello: I thought I said that.

DIRECT EXAMINATION by Mr. Zimmerman:

Q. Dr. Lehoczky, in your professional opinion as an Industrial Engineer and as a Labor Management Dispute Arbitrator for more than twenty-seven years, is working on a steady night shift working under a substantially different condition than rotating day shifts? A. It is.

Q. Will you please state the basis for your opinion? A. The opinion is based on both sociological and physiological data. First of all from the sociological point of view the Federal Government recognized this during World War II when they were willing to set aside the executive order, which we call the hold the line order, signed by the President, on wages and permitted the addition of certain number of cents to the regular wage as a shift differential.

From the sociological point of view, of course, it was understood that an employee who had to work at night [III-200] became out of phase with his family, his normal family life and also, of course, with the community life that a day shift worker enjoys.

And as far as the physiological aspects are concerned, experts in the field of physiology and biology and medicine have confirmed what night shift workers have known for a long, long time, namely that night work interferes with the employee's life rhythms, generally referred to as circadian rhythms, in this particular area.

The Court: What is the word?
The Witness: Circadian.

DIRECT EXAMINATION by Mr. Zimmerman:

A. And the physiologist and so on use this term for the analysis of the data that they have got.

Now, in that connection then, the various companies and unions have negotiated from time to time the shift differentials.

We have heard that Corning has a shift differential of sixteen cents here. U. S. Steel has fifteen cents. Westinghouse has a ten percent shift differential, and so on. It depends on the relationship of the Union and the company and to a large degree who is negotiating and how much else they had to negotiate about.

[III-201] However, in the days before Unions were commonly accepted in industry, before the Industrial Union was here, this negotiation took place between the company and the individuals.

Q. The individual workers? A. Individual employees. And it usually resulted from a request by the company to the employee to work at night and he would do so under certain conditions. And since the conditions varied we have a variable number of night shift bonuses which later on were unitized by the unions.

However, our night differential harks back to the time when the employer had to pay more to the employee or he would not work at night.

There are also exceptions to the people who—we had one here this morning, Mr. McCarthy, who is willing enough to work at night because he is, well possibly not suffering as much as the average employee in his physiological and social activities.

Mr. Zimmerman: Thank you, Dr. Lehoczky. I have no further questions, Your Honor.

The Court: Cross examination.

CROSS EXAMINATION by Mrs. Cappello:

Q. Doctor, you did give testimony in the case of [III-202] Schultz vs. Corning Glass Works in the Western District of New York, didn't you? A. Yes on job evaluation.

Q. Do you have experience in the field of job evaluation? A. Yes.

Q. And are you familiar with the Corning Glass Works job evaluation plan? A. Yes I am.

Mr. Zimmerman: Your Honor, I object to introducing evidence through this witness because we have not used him for that purpose and it is far outside the scope of the direct examination.

Mrs. Cappello: This has to do with working conditions under the Corning Glass Works job evaluation plan.

The Court: You are not talking about the Steven Jordon or the Harrison plan?

Mrs. Cappello: Both of them, Your Honor.

The Court: I would like the record to show that the Steven Jordon, Harrison plan is twenty-four years old today. It's of great interest to everybody.

Restate your objection. I am a little bit concerned about it.

Mr. Zimmerman: Your Honor, as I understand it, [III-203] Mrs. Cappello is intending to show this witness the job evaluation plan apparently for the purpose of establishing that under it the time of day is not included in the category of working conditions evaluated by the plan.

I will stipulate that this plan does not so provide. In any event I think it's irrelevant to this witness's professional opinion.

The Court: But if he stipulates to that will that solve your problem?

Mrs. Cappello: Well, no, Your Honor, I wish to explore with this witness in terms of job evaluation what is considered a working condition *vis-a-vis* a shift differential or a bonus as the Doctor has called it.

The Court: I will overrule the objection.

CROSS EXAMINATION by Mrs. Cappello:

Q. Doctor, I would like to show you Plaintiff's Exhibit 1, and Plaintiff's Exhibit K-1, there are two. Would you state what that is and state whether you are familiar with it? A. Exhibit K-1 represents section one of the Corning Glass Works job evaluation system and is known as the Evaluation Manual.

Q. Do you consider this a sound job evaluation plan? [III-204] A. I certainly do.

Q. Does industry generally evaluate jobs using the same factors as Corning Glass Works? A. Not necessarily exactly, but generally, yes.

Q. Would you indicate what working conditions are considered under the Corning Glass Works job evaluation plan? A. I would have to check through here.

Q. Please do. A. Working conditions are surroundings—well, the lowest degree talks about normal factory conditions, no unusual situations leading to discomfort. The next degree speaks of intermittent or continuous exposure to a few slightly disagreeable conditions.

The third states intermittent or continuous exposure to a few moderately disagreeable conditions and so on up to the fifth degree.

Q. What is meant by surroundings for purposes of working conditions under the Corning Glass Works job evaluation plan? A. The definition given here—and this is the official definition—"This factor measures the degree to which the physical conditions surrounding the job are disagreeable. Consideration is given to the nature and degree [III-205] of the unpleasant conditions and the amount of time the employee is exposed to these conditions during the working day."

Q. Is any other factor considered under working conditions? A. No. The second factor under working conditions is titled "Hazards" and you do wish me to read that?

Q. Yes, please do. A. "This factor is a measure of the hazards of the job to which the employee is regularly exposed. Consideration is given to the degree to which the unguarded hazard exists. The frequency of exposure to the hazards, the type of degree of possible injury."

Q. Is it your understanding then that Corning Glass Works does not include time of day as a working condition factor? A. Not in this job evaluation system.

Q. How do they compensate employees for working at different times of day? A. They compensate them by a shift differential, payment of a shift differential.

Q. Is that what you call a bonus? A. Well, it's called a night bonus and an afternoon bonus at times.

Q. Or a premium? [III-206] A. Or a premium. A shift premium. There are other premiums.

Q. Do you know whether many plants have such bonuses or premiums for working at undesirable times of day? A. Yes.

Q. Do you know of any plants that pays a shift differential and also pays a higher base hourly rate for one group of employees who work at night? A. There are such cases. I wouldn't be able to cite you a specific incident, but for example, in one of the plants the old arrangement existed, and this is prior to the Union's action—

Q. Which plant is this? A. As I recall it—and I don't want to be held to this—it's one of the Westinghouse plants, where the night molders received a dollar more per hour for working at night than the day molders. Now this is an old arrangement and it serves the purpose of illustrating that.

Q. Is that the only plant that you know of that does that? A. Well I would have to—off hand, yes. But I am sure there are others. They are the plants that set up the night differential before this War Labor Board edict permitted the use of a shift differential. And they are the [III-207] historical situation.

Q. Does anyone who goes on the night shift get that difference in base hourly rate? A. If he is a molder, yes, in the particular incident I cited.

Q. How about any other incidents? A. I don't know.

Q. Well in your experience as a job evaluator, do you find that working conditions, working at a different time of day is usually taken care of by a bonus and is not considered a working condition? A. It is considered a wage condition. A working condition is generally referred to in job evaluation as a surrounding and hazardous condition. However, that does not preclude its use in another aspect and that is the wage condition.

Q. It's a wage condition? A. Yes.

Q. Are you familiar with a Steven Jordon and Harrison job evaluation plan? A. Yes.

Mr. Zimmerman: Your Honor, I object to the introduction of Steven Jordon, Harrison job evaluation plan on the grounds that the plan itself is irrelvant and there [III-208] has been no showing that that was in effect at any time pertinent to this lawsuit.

The Court: Your comment?

Mrs. Cappello: Well we are introducing exhibits that show that it was replaced on January 20, 1969.

The Court: I thought there was a dispute about that?

Mrs. Cappello: Yes there is, but we have exhibits that are going in on that, Your Honor.

The Court: Is it your position that it did terminate on January 20 of 1969?

Mrs. Cappello: It was at that time replaced by the CGW plan.

The Court: Would the SJH have terminated on that date?

Mrs. Cappello: Well, we have exhibits and they are the Defendant's own records show that when they put in the CGW rates they lined up the column. The CGW rates and the SJ and H rates.

The Court: I am troubled by that point. I can't find out whether the Government said it did terminate on January 20 of 1969 or not.

Mrs. Cappello: Yes, Your Honor.

The Court: All right. What is the Company's [III-209] position on whether it terminated at that time?

Mr. Zimmerman: Your Honor, our position is that it terminated sometime in 1965. The exact date doesn't come to my mind but I will demonstrate that through a witness.

The Court: All right.

Mr. Zimmerman: In addition, Your Honor, may I add one further suggestion. As I did with the previous plan I will stipulate that the Steven Jordon-Harrison plan, if I have it correctly, does not include the time of day as a working condition in terms of the evaluation of jobs.

The Court: Is that stipulation satisfactory to you, Mrs. Cappello?

Mrs. Cappello: I would like the witness to testify to this SJ and H job evaluation plan and just what were the working conditions considered there under it.

The Court: Aren't you going to introduce some documents into evidence?

Mrs. Cappello: Yes, Your Honor.

The Court: Well don't the documents speak for themselves?

Mrs. Cappello: Well I wanted his opinion since he is an expert.

The Court: In the construction of it?

Mrs. Cappello: Whether he thinks this is a sound [III-210] job evaluation plan and whether the working conditions considered under this plan are considered sound job evaluations.

The Court: All right. Well, we are running for a very long time. I will overrule the objection and let you do it if you can do it with promptness because I must start this other matter at 4:30.

Mrs. Cappello: Yes, Your Honor.

CROSS EXAMINATION by Mrs. Cappello:

Q. This is Plaintiff's Exhibit 1, Exhibit J there too, which I handed you. What does the SJ and H plan provide as a working condition? A. It provides three major areas of working conditions. First of all surrounding conditions which are defined as wet, heat, cold, dust, grease, noise, and so forth. And then minor hazards which are described as bruises, cuts, heavy lifting, fumes, slippery floors, and so forth. And finally major hazards which are listed as machine, chemicals, gases, bodily injury, and so forth.

Q. In your experience with job evaluation are these sound factors to be considered under working conditions? A. These factors but they are not properly handled in the SJ and H system.

Q. In what way? [III-211] A. The entire SJ and H system was used and it was used for this purpose during

World War II, is so indefinite from factor to factor that you can interpret it anyway you like and you can slot a job much higher or much lower than it really should be. And this goes for working conditions.

Q. Do you know whether under that plan the rating factor is measured or multiplied by the common labor rate male and the common labor rate female? A. I am not certain of that. I believe it is but I would have to find it in here.

Mrs. Cappello: That's all, Your Honor.

The Court: Any re-direct, Mr. Zimmerman?

Mr. Zimmerman: Yes, your Honor.

RE-DIRECT EXAMINATION by Mr. Zimmerman:

Q. Dr. Lehoczky, you stated that working on a steady night shift was a wage condition. Does the fact that it is a wage condition mean that it is not also a working condition? A. No. It means that that particular element is not carried in a job evaluation system. In other words a job evaluation which deals with jobs only, with a job cycle and not with people, is insensitive to that particular factor.

Q. I see. A. Now there are other factors that go into wage [III-212] conditions as well. For example, working on Saturdays or working on Sundays, or working over time. Those are wage conditions that have nothing to do with job evaluation.

Q. Are those wage conditions working conditions in the same sense of the word, in your professional opinion, that working on a steady night shift is a working condition? A. Yes, they are wage conditions.

Q. Yes, but do they have the sociological and biological effects that you described? A. I don't know about the biological effects. They are limited largely to the night shift. But sociological effects are certainly there.

Q. In your professional opinion are the sociological effects connected with Saturday work, for example, as comparable to the sociological effects of an employee employed on a steady night shift? A. I can't answer that because I don't know any individual employee's position. If he has to go to a baseball game, yes. But if he just sits around at home, no. The night shift work is very serious.

Q. In other words Saturday happens once a week and steady night shift work happens five times a week? A. And it affects a lot more than an afternoon.

Q. Will you please make that same comparison with [III-213] respect to the biological or physiological differences, impact on a worker? A. The physiological differences are a function of the cycle, of the daily cycle, and they are the worst at night. We have statistics and we have charts and graphs that indicate that they are worse at night. They don't take a Saturday or Sunday into consideration.

Q. In other words it has a physical impact upon the well-being of many workers? A. Very much so.

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TRANSCRIPT OF PROCEEDINGS, OCTOBER 21, 1971.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

(Case title omitted in printing.)

Lewisburg, Pennsylvania, October 21, 1971

Before: Honorable Malcom Muir.

Appearances:

For the Plaintiff: Isabelle R. Cappello, Esq., 609—6th Place, S. W., Washington, D. C.

Stephen K. Ernst, Esq., 1505 Jefferson Building, 1015 Chestnut Street, Philadelphia, Pennsylvania 19107.

For the Defendant: Scott F. Zimmerman, Esq., 747 Union Trust Building, P. O. Box 2009, Pittsburgh, Pennsylvania 15230.

John G. Wayman, Esq.

Walter P. DeForest, Esq.

Robert F. Cox, Cox, Wilcox, Owlett & Lewis, 19 Central Ave., Wellsboro, Pa. 16901.

• • •

[IV-9] Mr. Ernst: Mr. Zimmerman, if you would make an offer of the names and what you would expect this witness to testify to, I think we can probably stipulate.

Mr. Zimmerman: Thank you.

Your Honor, I expect that this witness will testify that A. B. Fisher, a female, was employed on [IV-10] May 24, 1966 and accepted a job as an inspector-packer on the steady night shift on October 16, 1966.

Mr. Ernst: What was that last date?

Mr. Zimmerman: October 16, 1966.

Also that J. Y. Perry, a female, employed on June 13, 1966, accepted a job as an inspector-packer on the steady night shift on October 16, 1966; that E. F. Starkweather, a female, having a seniority date of June 14, 1966, accepted a job as an inspector-packer on the steady night shift on October 16, 1966; and that on this date — that is October 16, 1966 — any employee, male or female, employed at the Wellsboro Plant with a seniority date senior to the most junior of these employees could have had that job had they elected to accept it; that a J. A. Hopper, having a seniority date of March 14, 1967, accepted a job as inspector-packer on the steady night shift on March 14, 1966. She was hired directly into the job — I beg your pardon, it is 1967; and that two other females, A. A. Sherman, and G. L. Wallin were employed on the same day, March 14, 1967, and worked as inspector-packers on the steady night shift on that same day; and that any employee at that time employed at Corning Glass Works, Wellsboro Plant, could have had that job on that day had they elected to do so; and that N. M. Coolidge was employed on August 13, 1969 and accepted a job of [IV-11] inspector-packer on the steady night shift on August 13, 1969; and that any person employed at the Wellsboro Plant prior to that date could have had that job on August 13, 1969, had they elected to accept it.

This is with respect to the job of frost light inspector on the steady night shift, and I have two more employees.

Mr. Ernst: Shall we handle these, one position at a time?

Mr. Zimmerman: Sure.

Mrs. Cappello: Your Honor, we will stipulate to the names and the dates. We cannot stipulate to the conclusion because the inspector-packer job is not a bid job. It is not posted. I don't know how employees know about these vacancies. If senior employees were on vacation, they wouldn't have known about it, couldn't have bid on it when they got back the job would have been filled. They can't exercise their seniority unless there is a vacancy in the job. So we cannot stipulate to the conclusion, but we will stipulate to the names and the dates.

The Court: Is that satisfactory to you, sir?

Mr. Zimmerman: Yes, your Honor. I will question the witness on that other question.

The Court: All right.

[IV-12] Mr. Zimmerman: With respect to the job of frost light inspector, M. D-a-c-h-s-t-a-d-e-r, a male, having a seniority date of 9/20/66 accepted the job of frost light inspector on the steady night shift on June 10, 1967; and that a K. D. Leone accepted a job of quality inspector on the steady night shift on March 31, 1967.

Mrs. Cappello: Is that a male or a female?

Mr. Zimmerman: Male. The seniority date of Mr. Leone is May 9, 1966.

The Court: I thought it was L-e-o-n-e?

Mr. Zimmerman: Yes it is.

My understanding is that the area into which I must go with Mr. McKibbin now is limited to the question of what significance this is in terms of the rights of other employees.

The Court: You don't have a stipulation on this last one?

Mr. Ernst: I think perhaps we should stipulate as to the accuracy of the names and dates you have just indicated.

Mr. Zimmerman: Yes.

Mr. Ernst: We will stipulate.

Mr. Zimmerman: Thank you.

By Mr. Zimmerman:

[IV-13] Q. Mr. McKibbin, what is the significance of the fact that employees having these seniority dates, which have been indicated in the stipulation? A. The significance is that—

Q. Let me finish, that employees having the seniority dates of the employees indicated in the stipulation in terms of the ability of more senior employees to obtain these jobs on the date that the employees indicated in fact did obtain these jobs? A. The significance is that these employees took the jobs on the dates that I indicated, and that my investigation at the Plant indicates that these jobs are filled in either of two ways. I am speaking particularly now of the inspector-packer on the steady night shift.

Any employee who has any desire to go on that shift on that job indicates his wish or desire in the employment office, and at the time there is an opening, that employee is considered for that job. And the fact that these junior employees went on the job on the dates indicated would indicate that any senior employee who had wished to go onto the job and had availed themselves of the Plant practice could have gone on in place of these employees.

Mr. Zimmerman: Your Honor, as a matter of fact Mr. DeForest has just pointed out to me that there is a [IV-14] stipulation which I think may cover this question. I refer you to stipulation number 81 through 83.

The Court: All right.

By Mr. Zimmerman:

Q. With respect to a bid job, Mr. McKibbin, are the bids posted? What happens? How does an employee bid? A. At the time there is a vacancy on a bid job, there is notice posted in the Plant so that all employees are informed, and they then have an opportunity to complete a form, file a form, request a consideration for that job. And after the period for receiving bids is closed, then management makes the decision of which of the several employees who applied for the job will receive it.

Q. Is that decision based upon the Plant-wide seniority of the employee, everything else being equal? A. Yes, it is. It is all covered by the contract.

The Court: Mr. Zimmerman, does the stipulation state that the position of inspector-packer and positioner-inspector are bid jobs?

Mrs. Cappello: Eighty-three, your Honor.

The Court: But that just says the inspector-packer and hiker are non-bid.

Mr. Zimmerman: I was about to ask him that question.

[IV-15] The Court: When I read the stipulation, I was curious as to whether the other jobs which are not named there were in fact bid jobs, but there isn't any stipulation to that effect.

Mr. Zimmerman: Perhaps we might stipulate that the jobs frost light inspector and quality inspector are bid jobs.

Mr. Ernst: Yes, we will so stipulate.

The Court: All right.

By Mr. Zimmerman:

Q. You indicated with respect to those jobs which are non-bid jobs that a request is made to the personnel office. Is that in the form of a transfer request? A. Yes, sir.

Q. Will you please tell us on what occasions an employee may file a transfer request? A. Well, at any time in regard to a non-bid job, and it is customary to have a back log, if you will, of people who have indicated a desire—

Q. In other words is it customary for a vacancy to be required in a job before an employee may make known their desire through a transfer to be placed upon that job? A. That is not what normally happens.

Q. Ordinarily the employee files a transfer [IV-16] request indicating their desire? A. Yes, sir.

Q. And if a vacancy subsequently arises, the employee is placed upon the job in accordance with their request and seniority? A. Yes, sir.

Mr. Zimmerman: No further questions, your Honor.

The Court: You may cross examine.

CROSS EXAMINATION by Mrs. Cappello:

Q. Mr. McKibbin, how long are transfer requests kept on file? A. I think at the Wellsboro Plant they are kept on file for about three months.

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PLAINTIFF'S EXHIBIT 1.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

(Case title omitted in printing.)

DEFENDANT'S ANSWERS TO PLAINTIFF'S INTERROGATORIES, FIRST SET.

* * * *

Interrogatory No. 4

4. State the effective dates of the "male" rate schedules in effect after June 11, 1964, the rates for each wage group number, the job titles and numbers in each wage group number, and the number of job evaluation points assigned to each wage group as of said dates.

Answer

"Male" rate schedules in effect after June 11, 1964, were made effective: January 20, 1964, and November 2, 1964. The rates for each wage group number and the number of job evaluation points assigned to each wage group as of said dates are shown in Exhibits B1 and B2 attached. The job titles and (job code) numbers in each wage group as of November 2, 1964, are shown in Exhibit B3. The last "male" schedule ceased to be effective January 17, 1965. [Exhibit B2 is identical to Exhibit T-20 to Plaintiff's Exhibit 6, reproduced *infra*.]

Interrogatory No. 5

5. State the same information (requested in Interrogatory No. 4) with respect to the "female" rate schedules in effect after June 11, 1964.

Plaintiff's Exhibit 1.

Answer

"Female" rate schedules in effect after June 11, 1964, were made effective: January 20, 1964, and November 2, 1964. The rates for each wage group number and the number of job evaluation points assigned to each wage group number as of said dates are shown in Exhibits C1 and C2 attached. The job titles and (job code) numbers in each wage group number as of November 2, 1964, are shown in Exhibit C3. The last "female" schedule ceased to be effective January 17, 1965 [Exhibit C 2 is identical to Exhibit T-21 to Plaintiff's Exhibit 6, reproduced *infra*.]

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Interrogatory No. 26

26. State whether, in the past or presently, any of the jobs named in answer to No. 25 have been performed exclusively by men on all shifts and if so, identify the jobs by title and number and wage group number, and state whether the base hourly rate has been the same on all three shifts.

Answer

Yes, the following have been performed exclusively by men on all shifts, although since October 17, 1966, both men and women have had a right to the available work in accordance with their qualifications, seniority and preference:

Plaintiff's Exhibit 1.

Job Code	*Job Title*	*Group No.*
1836	Industrial Truck & Equipment Opr.	7
2015	Head Mixer	10
4007	Glass Melting Furnace Operator	11
4031	Optical Reader Forehearth & Lehr Oper.	14
2181	Cng. Rbn. Mch. Operator—Class B	14
2184	Relief Attendant	10
2280	Cng. Rbn. Mch. Operator—Class A	18
1053	Hiker	3
3838	Traying Machine Operator	5
4457	Frost Operator	8
4466	Misc. Frost Operator	9
3608	Opr. Cut & Finishing Machine	9
3716	Ceramic & S & L Operator	9
5711	Sahara Operator	9
5739	Finishing Equipment Mechanic	11
0850	Ind. Truck Driver & Checker	8
5728	Shift Maintenance Mechanic	13
6213	Electrician—Class A	16
6214	Electrician—Class B	12
5224	Packing Equipment Operator	7
5287	Attendant Hamper Maker & Sealer	4

The base hourly rate has been the same on all shifts.

• • • •

Interrogatory No. 32(a)

32. State the following information for the job of Inspector Packer No. 4561:

• • • •

Interrogatory No. 32(e)

32. (e) If this job has been described and evaluated under any job evaluation plan, state the name of the plan or plans, the factors considered under each plan, the names of the job analysts, the date the description or analysis was completed, the description, the evaluation originally

made in terms of the total points awarded as well as the individual points awarded for each factor considered under the plan, the date and nature of any revisions, and the name, address, and title of the custodian of the job descriptions and evaluations and the person who is best qualified to testify as to their use and preparation.

Answer

This job has been described and evaluated under the S J & H Job Evaluation Plan and also under the Corning Glass Works Job Evaluation Plan. As to the information requested with respect to the S J & H Plan see the copy of the S J & H Plan attached hereto as Exhibit J. The description of 2/7/49 reads as follows:

"PRIMARY FUNCTION:

Under the supervision of the Section Supervisor-Inspection Department visually inspects and packs a variety of bulbs.

EQUIPMENT USED:

Go, No-Go, gauges, micrometers, height gauges.

MATERIALS USED:

Packing materials

WORK PERFORMED:

Picks up clear, frosted, nonex or daylight bulbs passing on production belts or from reinspection belts in a prescribed manner (6-8 at a time) and visually inspects for glass quality and manufacturing defects such as stones, blisters, knots, cord, fire and water cracks, twisted necks and shoulders, dirty bulbs,

streaky and cloudy frosts, according to established specifications for individual types.

Places the bulbs for frosting in holes in the frosting tray after visual inspection, working at the speed of the conveyor belts.

Loose, strip or cell pack bulbs in hampers, positioning alternately on end or lying down in layers, inserting proper inner packing material as specified and transfer to conveyor when full.

Inspects clear or frosted bulbs, in reinspection room or on production run, depending upon immediate production requirements.

Insert inspection or packing ticket in each hamper of bulbs packed.

Performs miscellaneous gauging of bulbs by plug, go and no-go gauges, and breaking and micrometer gauging of certain special bulb types as required by supervisor.

Records information obtained from gauging for the use of Quality Control Inspector who compiles necessary information for rejection and holding of ware for reconditioning.

Maintains good housekeeping in working area."

As to the information requested with respect to the Corning Glass Works Job Evaluation Plan, see the copy of the Corning Glass Works Job Evaluation Plan attached hereto as Exhibit K1 and K2. The description of 1/8/70 reads as follows:

"*DESCRIPTION* packs bulbs or ornaments for shipment or for in-process storage. This work includes such duties as:

Plaintiff's Exhibit 1.

Moves empty carton from conveyor to packing stand, opens and inserts internal packing as required, closes full hamper and slides on lifts to take away conveyor.

Picks up 6 to 8 bulbs or ornaments at a time by grasping 3 or 4 between the fingers of each hand and bulk, tier, tray, or cell packs in hampers. Works rapidly, paced by the conveyor belt. When tier packing, alternates the bulbs up and down in rows. When tray packing, distributes the ornaments in one motion across the tray so that the neck of each ornament falls into proper position.

Uses hand fork to pick up bulbs from belt or from frost trays and bulk packs in hamper or in tote box.

Observes bulbs on belt and as handled and discards any bulb with obvious defects such as broken, cracked flare, twisted neck, etc.

Attends mechanical bulk packer, opening hamper and moving it to loading position, operating lever to start and stop flow of bulbs, placing paddle to break fall of first bulbs in each hamper, leveling bulbs in hamper, and moving hamper from loading position when full.

Maintains good housekeeping in work area."

• • • •

Interrogatory No. 33

33. State the same information as requested in No. 32, *supra*, as to the job of Positioner Inspector No. 4560.

• • • •

Plaintiff's Exhibit 1.

33(e) — This job has been described and evaluated under the S J & H Job Evaluation Plan and also under the Corning Glass Works Job Evaluation Plan. As to the information requested with respect to the S J & H Plan see the copy of the S J & H Plan attached hereto as Exhibit J. The description of 4/27/48 reads as follows:

"PRIMARY FUNCTION:

Under the supervision of Section Supervisor, works in rotation between the positioning of bulbs in lanes between belts of traying machine, and the visual inspection of bulbs for specified periods during each shift.

EQUIPMENT USED:

Wooden mallet, trays, gloves, safety goggles.

MATERIAL USED:

Packing material.

WORK PERFORMED:

Positions bulbs in lanes of moving belts of traying machine making sure that the bulbs are properly distributed over all ten lanes of the conveyor. Throws into cullet hopper broken, mis-shapen and other obviously defective bulbs. Inspects for such visual defects as twisted necks, broken bulbs, and other obvious manufacturing defects in the flare and neck of the bulbs.

Performs the duties of an Inspector-Packer when traying machine is not operating. Maintains good housekeeping conditions in working area.

The above statement reflects the general details considered necessary to describe the principal functions of the job identified and shall not be construed as a detailed description of all of the work requirements that may be inherent in the job."

As to the information requested with respect to the Corning Glass Works Job Evaluation Plan see the copy of the Corning Glass Works Job Evaluation Plan attached hereto as Exhibits K1 and K2. The description of 3/10/69 reads as follows:

"*DESCRIPTION* Positions bulbs in runs of traying machine. Performs duties such as:

Picks up and positions bulbs which have failed to drop properly into the trayer lanes. Transfers bulbs from one lane to another as required so that an adequate supply is always available in each lane.

Discards obviously defective bulbs such as broken or cracked flares.

Maintains good housekeeping in work area."

• • • •

Interrogatory No. 37

37. State the same information as is requested in No. 32, *supra,* as to the job of Frost Light Inspector No. 4674.

• • • •

37(e) — This job has been described and evaluated under the S J & H Job Evaluation Plan and also under the Corning Glass Works Job Evaluation Plan. As to the information requested with respect to the S J & H Plan see the copy of the S J & H Plan attached hereto as Exhibit J. The description of 9/13/55 reads as follows:

Plaintiff's Exhibit 1.

"PRIMARY FUNCTION:

Under supervision of Frost Shift Foreman — Inspection, Finishing and Packing, maintains an even flow of trays along run, visually inspects for glass quality and frosting defects and removes all defective ware from trays.

EQUIPMENT AND TOOLS:

Trays, tray racks, long handled mallet, inspection lights, tray drive chain control switch, gloves.

MATERIAL USED:

None.

WORK PERFORMED:

The Frost Light Inspector normally works in one of two positions and alternates between these positions while performing the following functions:

1. Knock Out Position.

   Inspects flare side of trayed ware as it passes over inspection lights. (6-13 trays per minute, 100 bulbs per tray.) Uses long handled mallet to knock defective ware out of tray.

2. Frost Light Position.

   Pins in wet trays—or damaged
   Inspects tops of trayed ware held over inspection light. (6-13 trays per minute, 100 bulbs per tray.) Throws out all broken or defective ware. Maintains even flow of trays to packers by operating tray drive chain control switch and by racking trays of ware when line is full. Dumps complete

trays of ware when Quality Control Inspector signifies that ware is unsatisfactory for packing. Sets out up to 100 trays (in 8 to 16 minutes) of ware which has frost defects which can be corrected by refrosting.

While performing the above functions, the Frost Light Inspector has the following responsibilities:

1. Removes all bulbs containing unacceptable frost defects. Exercises judgment and discretion in either dumping or accepting minor frost defects.
2. Notifies Frost Operator of frost defects.
3. Removes all bulbs containing unsatisfactory glass defects, such as cracked flares, blisters, seeds, severe mold rings, twisted necks, etc.
4. Notifies Quality Control Inspector of all types of defects found.
5. Passes on acceptability of ware in absence of Quality Control Inspector. Records hour and defect of questionable ware for Quality Control Inspector's review. Notifies Frost Foreman or Shift Foreman of such defects."

As to the information requested with respect to the Corning Glass Works Job Evaluation Plan see the copy of the Corning Glass Works Job Evaluation Plan attached hereto as Exhibits K1 and K2. The description of 3/7/69 reads as follows:

"*DESCRIPTION* Inspects frosted ware for glass quality and frosting defects and for broken and cracked flares. Alternates between two positions performing duties such as.

Plaintiff's Exhibit 1.

Inspects top of trayed ware held over inspection light. Removes all bulbs containing unsatisfactory visual defects such as frost spots or streak, splashed bulbs, clear spots, cracked flares, twisted necks, blisters, seeds, severe mold rings, etc. When majority of ware is bad, dumps whole tray. Also dumps trays when Quality Inspector signifies that ware is unsatisfactory for packing. Sets out trays when defects are such that they can be corrected by refrosting.

Inspects flare side of trayed ware (bottom side) as trays pass over inspection light. With long-handled mallet knocks out bulbs which are broken or have cracked flares.

Maintains proper flow of trays to packing position by operating tray drive chain switch or by setting out trays as necessary. Places automatic ejector pins in splashed or damaged trays. Wipes oil and grease from top of trays to protect bulbs as required.

Sets out trays rapidly to prevent jamming when take away chain, bulk packer, or tray tower fails.

Maintains good housekeeping in work area."

• • • •

Exhibit B1 to Plaintiff's Exhibit 1.
[Responsive to Interrogatory No. 4]

MALE SCHEDULE FOR DERIVING RATE RANGES AND STEPS

Cancels Sheet Effective 11/19/62
Effective January 20, 1964

Wage Group No.	*Job Eval. Points*	*Trainee Hourly Starting Rate*	*Min. of Rate Range*				*Max. of Rate Range*
					Midpt.		
1	Up to 160	$2.02	$	$	$	$2.065	$2.115
2	165-235	2.02			2.065	2.115	2.165
3	240-295	2.02		2.065	2.115	2.165	2.215
4	300-350	2.02	2.065	2.115	2.165	2.215	2.265
5	355-395	2.02	2.115	2.165	2.215	2.265	2.315
6	400-440	2.02	2.165	2.215	2.265	2.315	2.375
7	445-485	2.065	2.215	2.265	2.315	2.375	2.43
8	490-535	2.115	2.265	2.315	2.375	2.43	2.505
9	540-570	2.165	2.315	2.375	2.43	2.505	2.57
10	575-600	2.215	2.375	2.43	2.505	2.57	2.655
11	605-630	2.265	2.43	2.505	2.57	2.655	2.715
12	635-660	2.315	2.505	2.57	2.655	2.715	2.785
13	665-685	2.375	2.57	2.655	2.715	2.785	2.865
14	690-710	2.43	2.655	2.715	2.785	2.865	2.94
15	715-730	2.505	2.715	2.785	2.865	2.94	3.01
16	735-755	2.57	2.785	2.865	2.94	3.01	3.095
17	760-775	2.655	2.865	2.94	3.01	3.095	3.19
18	780-795	2.715	2.94	3.01	3.095	3.19	3.28
19	800-810	2.785	3.01	3.095	3.19	3.28	3.365
20	815-825	2.865	3.095	3.19	3.28	3.365	3.465
21	830-845	2.94	3.19	3.28	3.365	3.465	3.565
22	850-860	3.01	3.28	3.365	3.465	3.565	3.67
23	865-875	3.095	3.365	3.465	3.565	3.67	3.775
24	880-890	3.19	3.465	3.565	3.67	3.775	3.89
25	895-905	3.28	3.565	3.67	3.775	3.89	4.005
26	910-920	3.365	3.67	3.775	3.89	4.005	4.125

To: Mailing List No. 2—Hourly Rate Procedure dated 12/20/63

From: Employe Services
Industrial Relations Division

By: E. B. Lewis 1/31/64

Exhibit B3 to Plaintiff's Exhibit 1.
[Responsive to Interrogatory No. 4]

WELLSBORO JOBS

Wage Gp. No.	Job Code	Title
1	1217	Sweeper & Cleaner
2	970	Overhd. Mach. Cleaner
2	1042	Utility Worker
2	1053	Hiker
2	1055	Hiker
2	1055	Hiker
2	1056	Hiker
2	1115	Cullet Labor
2	1409	Laborer
2	1609	Shipping Labor
3	1064	Sweeper,Mach.,Clean, Paint
3	1346	Positioner Inspector—Nights
3	1347	Insp. & Pack—Nights
3	1348	Insp. Cap Pack—Nights
3	1815	Ind. Trk. Drvr.
3	1819	Oper. Power Sweep.
3	1901	Fire Equipt. Insp. (MRO)
3	3748	Ceramic Machine Loader—Nights
3	3749	S & L Machine Loader—Nights
4	1104	Attendant—Hamper Maker and Sealer
4	3011	Mixer
4	3807	Oper. Cut & Cap Mach.
4	4526	Packing Line Attendant
4	4679	Frost Line Inspector—Nights
4	5685	Cutter—Grinder Oper.
4	5854	Ind. Trk. Dr. Hvy. Eq. Mov. (MRO)
4	6000	Water Trtmnt. Oper.
4	6560	Storeroom Attendant
4	6857	All Around Cafeteria Wkr.—Nights
5	3122	Tray Mach. Oper.
5	3571	Silver Mixer
5	5235	Ind. Trk. Drvr. & Chkr.
5	5402	Elec. Trk. & Equipt. Oper.
5	5621	Insp. Mold Coat
5	5734	Supply & Maint. Man
5	5761	Mold Coater
6	3010	Head Mixer
6	3567	Frost Oper.
6	3574	Ceramic & S&L Oper
6	4855	Quality Insp.—Nights
6	5510	Dump Trk. Driver (MRO)
6	5725	Oiler
6	5825	Maint. Man—Insp. Equipt.
6	6210	Millwright Cl. C
6	6220	Carpenter, Cl. C
6	6225	Tinsmith, Cl. C
6	6229	Painter, Cl. B
6	6236	Pipefitter, Cl. C
7	3569	Chief S & L Mixer
7	3612	Set Up & Oper. Cut Off Mach.
7	4821	Spec. Check Insp.
7	5644	Chrome Plater
7	5737	Frost Maint. Man
7	5760	Tray Equipt. Mech.
8	3121	Relief Attendant
8	3568	Mix. & Reclaim Man
8	4032	Burner & Hot Repr. Man
8	4033	Fhth. & Lehr Oper.
8	5738	Dec. Equipt. Mech.
8	5743	Ribbon Mach. Mech.
8	6247	Concrete Fin (MRO)
9	4031	Glass Melt. Furn. Oper.
9	5655	Insp. Mach. Parts
9	5771	Instr. Svemn. Cl. B
9.1	6209	Millwright, Cl. B
9.1	6219	Carpenter, Cl. B
9.1	6224	Tinsmith, Cl. B
9.1	6228	Painter, Cl. A
9.1	6235	Pipefitter, Cl. B
10	5826	Ind. Truck Mech.
11	3120	Cng. Rib. Mach. Oper. Cl. B
11	5728	Shift Maint. Mech.
11.3	5608	Machinist, Cl. B
12	5736	Chief Frost Maint. Man
13	4012	Chief Fhth. Ctrlmn.
13.2	4030	Gl. Melt. Furn. Oper., Opt:Rdr. & Grp. Ldr.
13.3	5771	Inst. Svemn. Cl. A
13.3	6208	Millwright, Cl. A
13.3	6218	Carpenter, Cl. A
13.3	6223	Tinsmith, Cl. A
13.3	6234	Pipefitter, Cl. A
15.1	5741	Grp. Ldr. Mach. Maint.
15.3	5607	Machinist, Cl. A
16.1	3119	Cng. Rib. Mach. Oper. Cl. A

Exhibit C1 to Plaintiff's Exhibit 1.
[Responsive to Interrogatory No. 5]

FEMALE SCHEDULE FOR
DERIVING RATE RANGES AND STEPS
Cancels Sheet Effective 11/19/62
Effective January 20, 1964

Wage Group No.	*Job Eval. Points*	*Trainee Hourly Starting Rate*	*Min. of Rate Range*		*Midpt.*		*Max. of Rate Range*
1	Up to 160	$1.92					$1.965
2	165-210	1.92				$1.965	1.985
3	215-235	1.92			$1.965	1.985	2.005
4	240-265	1.92		$1.965	1.985	2.005	2.025
5	270-295	1.92	$1.965	1.985	2.005	2.025	2.045
6	300-345	1.92	1.985	2.005	2.025	2.045	2.065
7	350-395	1.965	2.005	2.025	2.045	2.085	2.125
8	400-435	1.965	2.025	2.045	2.085	2.125	2.165
9	440-475	1.985	2.045	2.085	2.125	2.165	2.205
10	480-515	2.005	2.085	2.125	2.165	2.205	2.245
11	520-555	2.025	2.125	2.165	2.205	2.245	2.285
12	560-585	2.045	2.165	2.205	2.245	2.285	2.33
13	590-615	2.085	2.205	2.245	2.285	2.33	2.375

To: Mailing List No. 2—Hourly Rate Procedure dated 12/20/63

From: Employe Services
Industrial Relations Division

By: E. B. Lewis

1/31/64

Exhibit C3 to Plaintiff's Exhibit 1.
[Responsive to Interrogatory No. 5]

Wage Gp. No.	*Job Code*	*Title*
1	1279	Cleaner
4	1364	Positioner Insp.
4	1365	Insp. & Pack.
4	1366	Insp. Cap Pack
4	1369	Insp. Pack Load
5	3756	S & L Mach. Loader
5	3798	Cer. Mach Loader
5	5102	Lab. Asst. Cl. 2
6	4674	Frost Light Insp.
6	4908	Qual. Control Insp.
6	6852	All Around Caf. Wrkr.
7.2	5101	Lab. Asst. Cl. 1
8	4830	Quality Insp.

PLAINTIFF'S EXHIBIT 4.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

(Case title omitted in printing.)

DEFENDANT'S ANSWERS TO PLAINTIFF'S SECOND REQUEST FOR ADMISSIONS AND FOURTH SET OF INTERROGATORIES

• • • •

Interrogatory No. 103

State the same information requested in 102, *supra*, as to female employees.

Answer

Exhibit N attached lists the information requested with respect to all females who transferred from the job of Inspector-Packer on the steady night shift to the job of Inspector-Packer on the rotating day and afternoon shifts from October 17, 1966, through December 28, 1969.

• • • •

Exhibit N to Plaintiff's Exhibit 4.
[Responsive to Interrogatory No. 103]

Employee Number	Name	N to Day Yr/Week	Base Rates Before	Base Rates After	Address	City - Town*	Zip Code	Social Security Number	Telephone
W0029	E. P. Abernathy	6/46	$2.295	$2.170	RD #1	Crooked Creek	16919	179057103	7177242210
W0702	C. L. Blair	9/19	2.775	2.600	RD #3	Wellsboro	16901	180228764	—
W0817	I. M. Brill	7/09	2.450	2.250	RD #1	Wellsboro	16901	184244588	7177244153
W0886	C. T. Brown	6/47	2.295	2.170	RD #1	Wellsboro	16901	187121779	7177244053
W1070	W. M. Campbell	9/19	2.775	2.600	10 Helvetia St.	Wellsboro	16901	166206420	7177241830
W1072	J. M. Carden	7/43	2.295	2.170	RD #1 Box 79	Wellsboro	16901	191247347	7177242447
W1722	H. R. Davis	7/47	2.550	2.340	30 Charles St.	Wellsboro	16901	162030753	7177243585
"	"	9/19	2.775	2.600	"	"	"	"	"
W1820	R. J. Dean	9/19	2.775	2.600	9 Cone Street	Wellsboro	16901	208147674	—
"	"	9/45	2.775	2.600	"	"	"	"	"
W2253	E. L. English	9/45	2.775	2.600	24 Cone Street	Wellsboro	16901	187122543	7177244479
W2948	R. L. Goodwin	7/47	2.550	2.340	92½ East Avenue	Wellsboro	16901	203204868	7177244427
"	"	9/19	2.775	2.600	"	"	"	"	"
W3240	J. S. Hall	9/28	2.775	2.600	45 Nichols Street	Wellsboro	16901	178166197	7177241289
W3321	D. A. Hart	9/18	2.775	2.600	RD #3	Wellsboro	16901	203206641	7177242423
W3429	N. A. Heatley	6/47	2.295	2.170	RD #1	Liberty	16930	191245990	7173243561
"	"	7/13	2.345	2.210	"	"	"	"	"
W3684	E. N. Hunter	9/06	2.775	2.600	5 Park Place	Wellsboro	16901	198033045	7177242725
W4678	M. Kelly	7/11	2.450	2.250	RD #6	Wellsboro	16901	203206625	7177241915
W4906	E. L. Krystoff	9/45	2.775	2.720	RD #1	Wellsboro	16901	203129512	7173537241
W5029	E. A. Litchfield	7/43	2.295	2.170	16 Norris Street	Wellsboro	16901	240340103	—
W5575	M. G. Mathews	7/15	2.250	2.140	Lincoln Street	Westfield	16950	169387905	7173672682
"	"	7/43	2.290	2.170	"	"	"	"	"
W6341	M. M. Ogden	7/15	2.250	2.140	B 102 Corey Creek	Apmansfield	16933	202323309	7176623246
W6516	J. Y. Perry	6/46	2.295	2.170	RD #4	Wellsboro	16901	190220547	7177244256
W6752	R. L. French	7/15	2.250	2.140	RD #1 Box 46	Crooked Creek	16919	169387977	7177241894
W7163	M. L. Reese	8/36	2.440	2.300	RD #4	Wellsboro	16901	195301700	7177243474
W7320	A. C. Root	6/51	2.450	2.250	RD #1	Morris	16938	187122226	—
W7990	E. F. Starkweather	6/47	2.295	2.170	RD #1	Crooked Creek	16919	166207086	—
"	"	9/44	2.775	2.600	"	"	"	"	—
W8007	M. C. Stebbins	7/01	2.450	2.250	RD #3	Wellsboro	16901	186141573	7177242582
"	"	7/07	2.450	2.250	"	"	"	"	"
"	"	7/17	2.450	2.250	"	"	"	"	"
W8077	J. E. Stocum	6/47	2.345	2.210	RD #1	Crooked Creek	16919	178166780	7177241889
W8237	R. M. Taylor	6/51	2.450	2.250	80 Central Avenue	Wellsboro	16901	190182118	7177243316
"	"	7/05	2.450	2.250	"	"	"	"	"
W8915	A. L. Vanvliet	6/47	2.295	2.170	RD #1	Wellsboro	16901	186366149	7177241579
"	"	9/37	2.710	2.600	"	"	"	"	"
W9420	N. L. Wilcox	6/51	2.450	2.250	66 Fellows Avenue	Wellsboro	16901	195165274	7177242737

August 24, 1971

* All in State of Pennsylvania

PLAINTIFF'S EXHIBIT 5.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

(Case title omitted in printing.)

DEPOSITION OF PERRY SEAMANS
[March 30, 1971]

* * * *

Appearances:

For the U. S. Dept. of Labor: Plaintiff:
Isabelle R. Cappello, Esq., Washington, D. C.
Stephen K. Ernest, Esq., Philadelphia, Pa. 19107.

For Corning Glass Works: Defendant:
Scott F. Zimmerman, Esq., Reed, Smith, Shaw & McClay, Pittsburgh, Penna.

* * * *

[3] By Mr. Zimmerman: I have a prefatory comment to make for the record. The defendant has produced as a witness pursuant to plaintiff's notice of taking depositions in request to produce and permit inspection and copying pursuant to rule 30-B, six, the first witness, Mr. Perry Seamans. Mr. Seamans has been produced to testify in respect to item number A-1 and to that part of number A-1 including the major and operation of the facility at Wellsboro, Pennsylvania, that is the physical layout, shifts worked and products produced. In addition, Mr. Seamans has been produced to testify in respect to item number seven which states how the following jobs have been performed on all shifts, how they have been described in and

evaluated under any job evaluation plans and their rates particularly since June 11, 1964, and then listing five jobs including inspector packer, positioner inspector, frost light inspector, quality inspector and hiker.

In connection with that, we have produced and turned over to Plaintiff the documents called for V-5 and 6 of plaintiff's notice.

Thank you.

PERRY E. SEAMANS, duly sworn according to law, testified as follows:

By Mrs. Cappello:

[4] Q. Mr. Seamans, how long have you been employed by Corning Glass Works? A. 20 years.

Q. Have you always been at the Wellsboro plant? A. Yes.

I came here in 1951 as plant industrial engineer; from 1956 to '61, I was supervisor of production planning, and in '61 went back as plant industrial engineer, am still doing that work. There has been a change in organization where I now am called supervisor of industrial engineering but the work is the same.

Q. Since 1951, have you been concerned with job evaluation? A. All except approximately two years when I was in the production planning job, at that time the work was taken over by another person in the engineering area.

Q. What was his name? A. Donald McMeniman.

Q. Which two years were you not concerned with job evaluation? A. It was the latter part of the time that I was in the production planning area which would have been '60 and '61 approximately.

Plaintiff's Exhibit 5.

Q. Addressing yourself to your duties in connection with job evaluation, exactly what did you do: what did the [5] industrial engineer do? A. We . . . there are two answers to that. One under the S J and H system, and one under . . . under the S J and H system, the plant industrial engineer either wrote or supervised the writing of the job descriptions. Those descriptions then were presented to the central industrial engineering group in Corning, who evaluated them.

Q. You merely describe them and they were evaluated in Corning, New York? A. That's right.

Q. By whom? A. Ed Noble is not supervisor of the group which does that, which did it at that time. Ez Hester was head of that group, Ezra Hester was the staff industrial engineer at the time I started, so that all of these evaluation and organization work was done under his general supervision.

Q. Now that's under the S J and H plan? A. That's right.

Q. That's the Stephenson, Jordon and Harrison plan? A. That's right.

Q. How was it done under any other job evaluation? A. Under the Corning Glass Works evaluation plan, we write the job description: of course, writing a job description entails an investigation and analysis. We write the job description, we evaluate it at the plant, [6] we submit it then to the same group in Corning for correlation and our evaluation is either approved as is or if they question any factor, then we discuss that and usually come to an agreement on the proper value for any factor.

Q. With what do they correlate? A. With similar jobs throughout the company.

Q. In other plants? A. In other plants?

Q. How many plants does the company have? A. It's in the area of fifty. I can't tell you exactly.

Q. What is the purpose of job evaluation? A. To arrive at proper rates for each job in relation to the other rates paid in the same plant.

Q. How do you use them?

By Mr. Zimmerman: What do you mean by them?

Q. Job evaluations? A. Are you speaking of the rates or of the description?

Q. Well, after you have described a job and evaluated it, what do you do with the description and the evaluation? A. We keep it on file in our office. We supply copies to the foremen and to the union representatives.

[7] Q. Do they have an opportunity to comment or approve? A. The foremen are the source of the original information when we are making the investigation for the purpose of writing a job description. We also discuss duties with people on the floor who are performing the job. Sometimes the person we will talk to in such cases is the union representative: if fact, if the department union representative is actually doing a job, we make it a point to talk to that person. We then write the description, as we see it, and it is then taken back to the foreman, and back to the union representative to see whether or not they agree we have properly described it. If there is a question, we discuss and we may change, if they've convinced us that we have not completely or properly described the work.

Q. Do they also have an opportunity to comment on the evaluation? A. Yes.

Q. The employees? A. We have a job evaluation committee consisting of three union representatives. That

committee sits with the personnel director and the industrial engineer and we actually go over and discuss the evaluation of each of these jobs.

[8] Q. And these descriptions and evaluations are used to set rates? A. The evaluations does set—yes, you are right. I'm sorry.

Q. Do you actually observe the jobs when you describe them? A. Yes.

Q. What happens when a job changes? A. We then go through the same procedure regarding the change to see whether or not the change is significant to start with enough to be included in the description. If that is the case, then we also examine whether or not it is significant as far as the value of any factor in the evaluation is concerned.

Q. Do you have a custom where by job changes are reported, too? A. The supervisor, the duty is to report any change to us. The changes are also, are reported by the union people, if they feel that a change has been made which has not been, or may not have been recognized.

Q. At the Wellsboro plant, were certain jobs regarded as women's jobs and certain other jobs as men's jobs?

By Mr. Zimmerman: During what period of time were [9] you referring to, Mrs. Cappello?

Q. Well, ever at this point? A. There were certain jobs which were considered to be night jobs and to which only men were assigned, in other words day jobs were on the same positions, women were assigned.

Q. Well, article 16, in your collective bargaining agreement refers to women performing men's work what does that mean?

Plaintiff's Exhibit 5.

By Mr. Zimmerman: Would you show him that article, please?

Q. This, the agreement between Corning Glass Works, Wellsboro, Pa., and the American Flint Glass Workers Union of North America, A. F. of L. dated February 15, 1944.

By Mr. Zimmerman: You may answer the question if you know, Mr. Seamans.

Q. Here's article 16, it says "women on men's work" and just a minute there is another . . .

By Mr. Zimmerman:

Q. This is an agreement between Corning Glass Works, Wellsboro plant, and the American Flint Glass Workers Union of North America, 1966 to 1969. [10] A. I cannot add anything to the answer I just gave.

Q. Just a moment, this is article 16, in the 1966 to 1969 agreement, also designating women on men's work. What does that mean by "men's work"? A. The night shift jobs to which I referred have been referred to as men's work. I'm not sure whether this status quo is meant to here or not.

Q. In answering interrogatories, Mr. Seamans we were given female rate schedules and male rate schedules, and we ask for the job titles on the male rate schedules and we received a long list of jobs. That is exhibit B-3 to the defendant's answers to interrogatories which plaintiff proposes to introduce into evidence as exhibit A. We were also given an exhibit C-3 to plaintiff's proposed exhibit A a list of job titles on the female rates schedules. The jobs on the female rates schedules, would those be considered women's jobs?

Plaintiff's Exhibit 5.

By Mr. Zimmerman: Are you talking about now or are you talking about historically?

By Mrs. Cappello: Historically.

By Mr. Zimmerman: What period of time in history, if so?

[11] By Mrs. Cappello: Up until, during the period you had male and female rate schedules?

A. We had male and female rate schedules. What is concerning me is how I can honestly answer the question as to whether these were male and female jobs. They certainly were . . .

Q. Would men have performed jobs on the female rate schedule? A. No.

Q. Would women have performed jobs on the male rate schedule? A. No, and I'm distinguishing jobs by shifts at this point, not on the same shifts.

Q. On exhibit B-3, the job of positioner inspector nights, inspector packer nights, inspector cap packer nights, ceramic machine loader nights, S & L machine loader nights, frost light inspector nights, all around cafeteria worker nights, and quality inspector nights, appear on the male schedule. On the female schedule the same job titles appear without the designation "nights", is that correct? A. That's right, and I say, by shift, they were distinguished. On the night shift only men worked: on the day and afternoon shift, women.

Q. Why is that, or why was that? [12] A. It's matter of tradition which started long before I came there and for which I don't think I can honestly give a good explanation.

Q. Was a tradition when you arrived on the scene in 1951? A. Yes, it was.

Plaintiff's Exhibit 5.

Q. Was a higher base hourly rate paid for the job on the night shift? A. Yes.

By Mr. Zimmerman: Which jobs?

By Mrs. Cappello: All the jobs that were listed a minute ago. Do you wish me to repeat them?

By Mr. Zimmerman: Do you know the base hourly rates of all those jobs?

A. No, I don't know them. I don't know the rates.

By Mr. Zimmerman: Well, do you know whether or not [13] there was a higher base?

A. Yes, there was a higher base rate.

• • • •

[16] Q. Turning to Schedule A, which is designated as plaintiff's exhibit H, the ninth paragraph, that paragraph reads: "Any employee who as of the day of the installation of the CGW hourly job evaluation plan is an employee of the Wellsboro plant covered by the terms of the basic agreement and who thereafter by operation of rights under the basic agreement continues to hold or takes any of the job specified on the third shift shall receive the rate which he or she would have received for that work under pre-existing practices. Those jobs being inspector-packer, (N) positioner inspector (N), frost light inspector (N), quality inspector (N). What is the basic agreement to which paragraph 9 refers? A. The agreement is that anyone. . .

By Mr. Zimmerman: No: no, the question is what is the basic agreement to which it refers?

Plaintiff's Exhibit 5.

Q. It says, "by the terms of the basic agreement". Is that the collective bargaining agreement, or the memorandum of agreement? A. To conjecture, I'm not — it was an agreement made at the time of the option of this plant. I cannot pick it out I think from. . .

[17] Q. You don't think it's the collective bargaining agreement? A. Yes, it is, collective bargaining agreement.

• • • •

Q. Mr. Seamans, do you have any facts to tell us about what the pre-existing practices were? A. That people working on these jobs on the night shift received a rate which was different from that on the other two shifts.

Q. Was it a higher rate? A. It was a higher rate.

Q. Exclusive of the plant wide shift differential? A. Yes, and that anyone with an employee date at the date of installation of this agreement when working [18] on those particular shifts would, in effect, have a red circle rate.

Q. And that would preserve the pre-existing higher rate? A. That's right, for those people.

Q. The capital N's which appear in parens, that refers to night shift? A. That's right.

• • • •

PLAINTIFF'S EXHIBIT 6.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

(Case title omitted in printing.)

DEPOSITION OF SETH J. McKIBBIN

[July 14, 1971]

For the Plaintiff: Isabelle R. Cappello, Washington, D. C.
For the Defendant: Scott F. Zimmerman, Esq., Reed, Smith, Shaw & McClay, Pittsburgh, Pennsylvania.

* * * *

[187] By Mrs. Cappello:

Q. Mr. McKibbin, would you state what jobs you have held at Corning Glass Works and the dates in which you held those jobs. A. I was employed in March of 1946 in production planning [188] activity and in January of 1949, I went into the Industrial Relations Division, and from that date forward I have been in a series of jobs involving wage and salary administration, Manager of Employee Services, and currently Manager of Statistics and Surveys in the Industrial Relations Division.

Q. I would like to ask you first about the rates for the job of inspector packer and inspector packer nights. What were the earliest rates paid for these jobs that you know of? A. Well, the job classifications were set up on job evaluation, as I recall, in October of 1947. It was with the first formal schedules that we found.

Q. Before that date were there employees performing the job of inspector packer, inspector packer nights? A. I honestly can't answer that, because we didn't have formal job evaluation and the duties weren't written down succinctly so that people knew what work was really being performed. In some cases there were titles being used that were the same, but the work was not necessarily the same, because we don't know what the work was, very frankly.

Plaintiff's Exhibit 6.

Q. If you will turn to Plaintiff's Exhibit T-65, that is the last page. That appears to be a female schedule effective January 6, 1946. Is that correct? A. I can't tell from this copy, but my recollection is that this sheet does not apply at Wellsboro. I think it is [189] labelled at the top "Corning, New York. I can't read it from this copy, but my recollection of the original it is.

[190] Q. Turning to Plaintiff's Exhibit T-61, which is a female schedule effective October 20, 1947, is this the first formal schedule? A. It is as far as I have been able to learn, yes.

* * * *

By Mrs. Cappello:

Q. Referring now to Plaintiff's Exhibit T-61, where, in what wage group number was the job of inspector packer on the female schedule? A. It was in wage group 4.

Q. And the maximum rate for that job was what? A. As of October 20, 1947, it is indicated as 91½ cents.

[191] Q. Now, the column "Job Evaluation Points," showing 240 to 265, what job evaluation system was that? A. That would be the SJ&H system.

Q. Turning to Plaintiff's Exhibit T-60, which is the male schedule effective October 20, 1947, what wage group number was the inspector packer job in? A. Inspector packer nights job was a group 3.

Q. And that is job evaluation points 240 to 295? A. That is right.

Q. Is that also in the SJ&H? A. It is.

Q. What was that maximum rate? A. Maximum for group 3 as of October 20, 1947, was $1.10-½.

Q. How much of a differential is that between the male and female schedule?

Plaintiff's Exhibit 6.

Off the record.

(Discussion off the record.)

By Mrs. Cappello:

Q. What is the differential between the job of inspector and packer on the female and male schedules? A. The difference between $1.10-½ and 91-½, or 19 cents.

Q. Continuing through the male and female rate schedules [192] up until the one effective January 20, 1964, which is Plaintiff's Exhibits 23 and 24 for the male and female schedule, did the differential remain 19 cents an hour?

Off the record.

(Discussion off the record.)

The Witness: Yes, it did.

By Mrs. Cappello:

Q. Turning to Plaintiff's Exhibits T-21 and T-20, which are the male and female schedules effective November 2, 1964, did the differential go up to 19-½ cents an hour? A. Yes, it did.

Q. Referring to Plaintiff's Exhibits T-17, 18, and 19, the conversion table, the schedule effective January 18, 1965, and the conversion schedule, would you explain what happened to the male and female schedule on these dates? A. The male and female schedules were eliminated as of 1/18/65.

Q. And how was that elimination carried out? A. Well, we devised this conversion table, which you have labeled as T-17, and the jobs which were in formerly groups 1, 2, 3, and 4A became a new group 1, old group 5A became new group 2, and so forth, as indicated on that exhibit.

Plaintiff's Exhibit 6.

Q. Now, the inspector packer rate which had been on the female schedule wage group number 4, did that go into new [193] group 1? A. Yes, ma'am.

Q. And the inspector packer nights job which was on the male schedule as wage group number 3, did that go into new group number 5? A. Yes, Ma'am.

Q. Did the rates change at all? A. The maximum rates as I recall did not change, but some of the subordinate rates did.

Q. What was the purpose of this conversion from male and female schedules to the single schedule? A. The purpose of the conversion?

Q. Yes. A. Was to move one step closer towards installation of the CGW job evaluation plan.

Q. Why was this done on January 18, 1965? A. We had met with the union to discuss job evaluation generally and as a result of that meeting, we agreed to put this into effect. It was negotiated.

Q. After the conversion to the single rate schedule—

Mr. Zimmerman: May we go off the record just a moment.

(Discussion off the record.)

By Mrs. Cappello:

Q. After the conversion to the single rate schedule, [194] the rates remained the same; is that correct? At the top of the— A. The max rates for the jobs in discussion here remained the same.

Q. Turning to Plaintiff's Exhibits T-15 and 16, rates effective November 1, 1965, did the differential between the inspector packer and the inspector packer nights job go up to 20 cents an hour? A. Twenty cents an hour, yes.

Plaintiff's Exhibit 6.

Q. Turning to Plaintiff's Exhibits T-11 and T-12, did the differential between these two jobs go up to 21½ cents an hour? A. How much did you say?

Q. Twenty-one cents an hour—correction.

Did it go up to 21 cents an hour? A. Yes, it did.

Q. Turning to Plaintiff's Exhibit T-10, effective November 4, 1968, did the differential go up to 21½ cents an hour? A. That is the difference on this schedule.

Q. Was this increase a general increase? A. All of these increases that we have been talking about were negotiated with the union, yes.

Q. And they were general increases applicable to all [195] production employees covered by the collective bargaining agreement? A. As covered by the specified formula as negotiated, yes.

Q. Turning to Plaintiff's Exhibit T-9, what happened to the inspector packer and inspector packer night jobs on this? A. In looking at T-8, this was a—

Q. Excuse me, T-8? A. Is that what you referred me to?

Q. No, T-9. A. I beg your pardon.

Q. The Corning Glass Plant rate steps schedule. A. Sorry.

Q. What rate group is the inspector packer job in? A. As I recall, that is a group 1.

Q. And the top rate for that job is $2.60 an hour, is that correct? A. As of the date of this schedule, yes.

Q. Now, looking back at Plaintiff's Exhibit T-10, the inspector packer night was getting what rate? A. Up to $2.75½.

Q. Mr. McKibbin, in all of these questions, I will be referring to the maximum rate range. A. Fine. That will simplify things.

Plaintiff's Exhibit 6.

[196] Q. And on Plaintiff's Exhibit T-10, the rates effective November 4, 1968, inspector packer, was at what rate? A. I would like to make one observation, that the—

Q. Excuse me. Answer the question first, then make the observation. A. Would you restate the question, please.

Q. On Plaintiff's Exhibit T-10, effective November 4, 1968, at what rate was the inspector packer? A. $2.54.

Q. Did you have an observation to make? A. Yes. I wanted to clarify that the November 4, 1968, date is really an administrative date, which—I think you are familiar with our position on that.

Q. Would you state it for the record? A. Actually there were no adjustments made as of November 4, 1968. Subsequent to that date, in the case of Wellsboro, there were negotiations which were consummated in a new labor agreement including a general increase made up of several different parts, and one part of that general increase formula had a retroactivity date of November 4, 1968. But specifically on November 4, 1968, no rates changed via a general increase.

Q. When did the rates shown on Exhibit T-10 actually start to be paid to employees? [197] A. It was some date in January 1969.

Q. Would it be January 10, 1969? A. No, it wouldn't be January 10, 1969. It would be probably the thirteenth January 13th.

Q. Turning to Exhibit T-9, the Corning Glass Works Plant rate step schedule, when did the inspector packer start to receive the $2.60 rate? Would that be January 20, 1969? A. Yes, ma'am.

Plaintiff's Exhibit 6.

Q. So the rates on Plaintiff's Exhibit T-10 went in January 13th and the rates on Plaintiff's Exhibit T-9 went in on January 20, 1969; is that correct? A. Would you restate that, please.

Q. The rates on Plaintiff's Exhibit T-10 went into effect on January 13, 1969, and the rates on Plaintiff's Exhibit T-9 went into effect on January 20, 1969; is that correct? A. I am troubled by the word "effective," because we use—we have used the term several different ways. But there were people paid on January 13th in accordance with a table, T-10, and on January 20th people were paid in accordance with the table T-9.

Q. Perhaps to make it simpler, an inspector packer on the night shift on January 13 was paid $2.75½; is that correct? A. Yes, ma'am.

Q. And on January 20, 1969, the rate became $2.60; is [198] that correct? A. The rate for—the job evaluated rate for the job became $2.60. The way incumbent employee was paid could be different.

Q. Well, explain that, please. A. We agreed as part of our installation of the CGW plan that all employees would receive an increase of no less than 2 cents an hour.

Q. Let's take an inspector packer working on the night shift who on January 13, 1969, is receiving $2.75½ cents an hour. What happened to his rate on January 20, 1969? A. He received a 2 cent increase.

Q. So he then received $2.77½ cents an hour? A. That is my recollection, yes.

Q. He did not receive the job evaluated rate of $2.60, is that correct? A. An employee was on the payroll January 13th on January 20th did not receive $2.60.

Q. Would you explain how that came about? A. Yes. That was a revision that the union and management negotiating teams agreed upon and that was that employees who had service as of January 20, 1969, would be accorded specific treatment, as I have enumerated, whereas employees [199] hired on and after—well, after January 20th would strictly follow the CGW job evaluation rate structure. It was a matter of service.

Q. Was that in accordance with your memorandum of agreement signed with the collective bargaining agreement? A. It is part of the negotiations, yes.

Mrs. Cappello: Off the record a minute.

(Discussion off the record.)

By Mrs. Cappello:

Q. In Plaintiff's Exhibit H to these depositions is schedule A to Corning Glass Works job evaluation installation rules, Wellsboro, Pennsylvania.

Would you read paragraph 9 for the record and tell me whether that is the reason for the night inspector packer retaining the higher rate? (Handing document to witness) A. Paragraph 9 reads as follows:

"Any employee who, as of the date of the installation of the CGW hourly job evaluation plan, is an employee of the Wellsboro Plant covered by the terms of the basic agreement and who thereafter by operation of rights under the basic agreement continues to hold or takes any of the jobs specified on the third shift, shall receive the rate which he or she would have received for that work under preexisting practices, those jobs being inspector packer [200] nights, positioner inspector nights, frost light inspector nights,

quality inspector nights. Persons who became employees after the date of installation shall be paid the evaluated rate when they perform work on any of the evaluated jobs."

I think the intent of paragraph 9 was as I have stated it, the words literally don't apply. And I believe I explained this previously.

Q. Would you reexplain it for us? A. Yes. Paragraph 9 was lifted from the agreement applying to another plan and literally does not apply to the Wellsboro Plant. It can't. If you take it literally, it says: We are going to pay anybody going on the night shift a rate of I believe it would be $2.75½—no, it would be $2.55. And yet that is not what we did.

It says we would pay them the rate that they would have gotten under preexisting conditions and the preexisting—the last condition that we had was that they would have gotten I believe it is $2.55.

Q. And pursuant to the collective bargaining agreement of January 1969, in fact they were receiving $2.77½ an hour, is that correct? A. That is as I recall it, yes.

Q. Paragraph 9, however, does explain why the night [201] shift inspector packers continue to receive a higher rate than the job evaluated rate, is that not so? A. I have trouble saying that it explains it. It was intended to explain it, but I fear, in retrospect, that does an inadequate job is what I am trying to say.

Q. Is there any other provision of the collective bargaining agreement which does explain? A. None explains it any better than that does.

The fact is that it doesn't really convey what we did. And I might add, there is agreement among the parties

that what we did was what we intended to do, and our language doesn't adequately cover it.

Q. Is this what you call red circling a rate? A. I believe that is common nomenclature.

Q. Turning to Plaintiff's Exhibit 8, which is the memorandum of agreement dated January 10, 1969, paragraph 3, would you read the first paragraph of that, please. (Handing document to witness.) A. Paragraph 3 reads:

"Protection against wage reductions of persons currently having rates for jobs which are higher than those resulting from the above procedure is set forth in the attached schedule A."

Q. And is that paragraph 9 of schedule A that you [202] previously read? A. I believe paragraph 3 refers to schedule A in its entirety and there are other provisions for treatment of rates than the paragraph in question.

Q. Is this a long-standing practice of Corning Glass Works to red circle a rate that is reduced through job evaluation? A. I think the term "red circling" was new to us with the CGW job evaluation plan, though there is a provision in our contract that says when job evaluation results in lower rates, that we won't reduce the incumbent employees.

Q. Has that provision been in all your contracts back to 1944? A. I haven't verified it, but I don't think it would go back to 1944, but it would go back to an early date in our union relationship.

Mrs. Cappello: Off the record.

(Discussion off the record.)

Plaintiff's Exhibit 6.

By Mrs. Cappello:

Q. Mr. McKibbin, I hand you copy of the 1944 collective bargaining agreement and ask you to read section 15, section 2, into the record. (Handing document to witness.) A. Article 15, section 2, reads as follows:

"When job evaluation as above outlined results in [203] wage brackets lower than prevailing rates then paid for the job, it is not the intention of the company to reduce the prevailing base rates of employees currently working on such jobs."

Q. Has that section been in all your succeeding contracts? A. I believe it has.

(Discussion off the record.)

The Witness: My answer would be, after reading the current contract, it is still there, article 15, section 2.

By Mrs. Cappello:

Q. Turning to Plaintiff's Exhibit T-8, which is the SJ&H plan, rates step table dated January 20, 1969, how was this used on January 20, 1969? A. The rate structure that was installed on January 20, 1969, had to convert old rates and rate ranges to new rates and rate ranges. And this table was an assignment, an arbitrary assignment of rates by group numbers to a particular position in the rate range so that employees would receive a new rate consistent with our negotiation program.

Q. And this table shows that being an inspector packer who was in rate group 1 was receiving $2.54 an hour and inspector packer nights, in rate group 4, in rate group 5, was receiving $2.75½ an hour. Is that correct?

Plaintiff's Exhibit 6.

[204] A. This table doesn't show anything on inspector packers as such. All it does is assign the rates that were being paid to the inspector packers to a particular position in the rate range for converting that rate to a new rate.

Q. But at that time the inspector packer, on day and afternoon shift was in rate group 1, was he not? A. Yes.

Q. And the inspector packer on the night shift was in rate group number 5, is that not right? A. That is right.

Q. So those rates I stated are correct, is that not right? A. I guess you will have to restate it.

Q. $2.54 for the inspector packer on the day and afternoon shift, $2.75½ an hour for inspector packer on the night shift? A. Yes. The rates prior to our negotiation were $2.34 and $2.55.

Q. What are you reading from, Mr. McKibbin? A. I am reading from T-11.

Q. All right. A. And then phase 1 of the general increase program increased those rates, as I remember the formula, 20 cents or 8 percent, whichever is greater. And then there was a further [205] increase to the January 20th rate as detailed really on T-6, T-6 being the hourly rate structure that went into effect January 20, 1969.

Q. Well, now looking at T-6 and taking employees with a service date prior to January 20, 1969, the inspectors on the day and afternoon shift are receiving what rate? A. Up to $2.60 an hour.

Q. And on the night shift, what rate are they receiving? A. They would be receiving a red circle rate in excess of $2.60 per hour.

Q. What would that be? A. $2.77½.

Q. Wouldn't it be $2.79? A. I don't believe so. I think

if it was $2.75½—let's see, if it was $2.55 on November 1, 1967, then it went up 8 percent or 20 cents plus a minimum of 2 cents. So I would guess that it was $2.77½.

Q. So the differential between those day and afternoon and night shift inspectors would now be 17½ cents an hour, is that correct? A. Yes.

Q. According to T-6.

Mr. Zimmerman: With respect to which group of employees?

[206] Mrs. Cappello: The ones with service date of January 20, 1969, or earlier.

The Witness: Yes, ma'am.

By Mrs. Cappello:

Q. On Plaintiff's Exhibit T-7, which is a conversion schedule effective November 4, 1968, are the inspectors on the day and afternoon shift in group 1 then paid $2.54 an hour? A. Yes, on this T-7.

Q. And the night inspectors would be at $2.75½? A. Yes, ma'am.

Q. Now, there is a date down at the bottom, January 14, 1969. Is that when those dates were actually paid? A. That January 14th day is actually the date this sheet of paper was typed.

Q. When were these rates actually paid to the employees? Were they actually paid on November 4, 1968? A. No, they were not. And I believe I just covered this earlier.

Q. It was January 13th? A. They were made effective —people on those jobs on January 13th were initially paid for their time at a higher rate than previously. The check was actually paid sometime later, of course.

Plaintiff's Exhibit 6.

Q. But those employees working on these jobs on January 13, 1969, were actually paid the rates indicated on this exhibit, [207] is that correct? A. Yes, ma'am.

Q. Now, you mentioned something about a 2 cents an hour increase. When did that take place? A. That was part of the settlement that the union-management negotiators agreed upon and I believe the date is January 10, 1969.

Mrs. Cappello: Off the record.

(Discussion off the record.)

By Mrs. Cappello:

Q. Mr. McKibbin, the 2 cents an hour increase provided for in the collective bargaining agreement of January 10, 1969, would you explain who received that 2 cents an hour and when it went into effect? A. The 2 cents an hour is a minimum. Everyone did not receive 2 cents.

Q. Who did? A. Some people received more. The people who received the 2 cents were those whose before and after job evaluated rates, if you will, would pay them less than the 2 cents. It is difficult to explain in words.

Q. For instance, the inspectors on the night shift would receive the 2 cents, is that correct? A. They would receive the minimum of the 2 cents.

[208] Q. The day and afternoon shift inspectors would not because their job rate went up under job evaluation, is that correct? A. That is right. Actually the nights job was eliminated under the CGW evaluation program.

Q. Was the job eliminated or just the designation? A. From a job evaluation standpoint, we have but one job of inspector packer now whereas prior to January 20th, we had two jobs.

Q. Was this a change in job duties or change in designation? A. It was a change in job evaluation principle, I guess would be the right way to describe it.

You will have to talk to a job evaluation expert on this. All I know is what they tell me.

Q. I think Mr. Seamans testified to this. We won't pursue that.

The 2 cents an hour increase for those entitled to it took place on January 20, 1969; is that correct? A. They received the 2 cents for time worked on January 20th for the first time.

There was, however, a retroactive period of time that they also were similarly compensated.

Q. Suppose you explain the retroactivity provisions. [209] A. Well, it is detailed in the agreements there, but, in essence—

Q. Excuse me, which agreements? A. Well, the basic agreement and the job evaluation agreement.

Q. Thank you. A. There were two parts, at least two parts that were retroactive. There were actually more parts, but in regard to wage rates, there were two features of the general increase that were made retroactive. One was section 7, article 25, on page 33 of our contract booklet, was made retroactive to a date November 4, 1968. Then in the job evaluation agreement consummated at the same time, there was a retroactive feature for the job evaluation adjustment. My recollection is that that went back to November 11, 1968.

Q. Was this an arbitrary computation based upon jobs held on a certain day? A. It was.

Q. Is there anything else you would like to explain about retroactivity pay? A. I hope not.

Plaintiff's Exhibit 6.

Mrs. Cappello: Off the record.

(Discussion off the record.)

By Mrs. Cappello:

Q. Turning now to Plaintiff's Exhibit T-6, which is [210] effective January 20, 1969, I believe you explained that already, Mr. McKibbin.

Turning to Plaintiff's Exhibit T-5, effective November 3, 1969, an inspector packer on the day and afternoon shift with seniority as of January 20, 1969, receives what rate of pay at the top? A. $2.72 maximum.

Q. An inspector packer working on the night shift who has seniority as of January 20, 1969, receives what rate? A. That rate is not on Exhibit T-5.

Q. What would be the rate? A. $2.89½.

Q. Turning to Plaintiff's Exhibit T-4, which is effective January 5, 1970, inspector packer with seniority as of January 20, 1969, on the day and afternoon shift, receives what rate? A. $2.74½.

Q. And night inspector with same seniority receives what rate? A. One percent higher than $2.89½. It is not on this sheet.

Q. What would that be? A. $2.92½.

Q. Turning to Plaintiff's Exhibit T-3, effective [211] November 2, 1970, an inspector packer on the day and afternoon shift with seniority as of January 20, 1969, receives what rate? A. $2.85½.

Q. And a night inspector of the same seniority receives what rate? A. 4 percent over $2.92½.

Q. What would that be?

(Discussion off the record.)

The Witness: My mathematics say it is $3.04.

Plaintiff's Exhibit 6.

By Mrs. Cappello:

Q. Turning to Plaintiff's Exhibit T-2, a day and afternoon shift inspector with seniority as of January 20, 1969, receives what rate? A. $2.88½.

Q. And the night inspector at the same seniority receives what rate? A. $3.07.

Q. And that is effective January 4, 1971; is that correct? A. Yes, ma'am.

Q. Are there going to be any rate changes between now and October 18, 1971? A. There are none provided in our contract.

Mrs. Cappello: Off the record.

[212] (Discussion off the record.)

By Mrs. Cappello:

Q. Are the explanations for Plaintiff's Exhibits T-1 through T-65 also applicable also for rates of positioner inspector and positioner inspector nights? A. The inspector and packer job classification and the positioner inspector job classifications have been treated similarly. I should say identically, as I recall they are identical.

Q. The frost light inspector and frost light inspector night jobs, would your testimony as to the inspector packer and inspector packer night jobs and Plaintiff's T-1 through T-65 also apply to frost light inspector? A. The rates applicable could be similarly determined in that fashion, yes.

Q. And the rates for the job of quality inspector, quality inspector nights, would the same explanation apply to those jobs in connection with Plaintiff's Exhibits T-1 to T-65? A. The job classification quality inspector as I recall did not come into being until a date in March of 1969, I don't

have that date right in front of me; but to that extent, anything on the T-1 through T-65 bit would not apply until March 24, 1969, which is the date on which the job was created. That [213] is in our answer 62.

Q. Now, you testified that the rates for positioner inspector and for inspector packer day and afternoon, and nights are identical. Would you give us the rates for the frost light inspector and the frost light inspector night job since October 2, 1966, as applied to employees with seniority as of January 20, 1969? A. For the job of—

Q. Frost light inspector. A. —frost light inspector.

Mrs. Cappello: Off the record.

(Discussion off the record.)

Mrs. Cappello: On the record.

Mr. Zimmerman and Mrs. Cappello will meet in Pittsburgh at the law offices of Reed, Smith, Shaw and McClay on September 15 at ten a.m.

By Mrs. Cappello:

Q. Using Plaintiff's Exhibits T-1 through T-14, would you please state the rates that frost light inspectors, on the day, afternoon and night shift, received who had seniority as of January 20, 1969. A. Actually I have to go back to T-15 in order to establish the rate on October 2, 1966.

Q. All right. A. And if we can understand the conditions, I have [214] reconstructed the rates here.

Q. All right. A. And as of October 2, 1966, from T-15, I have the day rate of $2.28½ an hour and the night rate of $2.44½ an hour.

As of November 1, 1966, as shown on T-13, the day rate is $2.34½; the night rate of $2.50½.

Plaintiff's Exhibit 6.

As of November 1, 1967, using T-11, the rate on days became $2.44 and on nights became 2.605.

Now I jumped over the November 4th problem, if you will, to identify from T-6 that on January 20, 1969, the rate on days was $2.74½.

Q. All right. Now, what was the rate on January 13, 1969?

Mr. Zimmerman: See, Isbelle, this gets into the whole transitional problem.

Mrs. Cappello: That's right.

Mr. Zimmerman: Really there was a rate as of the contract of January 10, 1969. And although that rate was arrived at in two stages, seven days apart, there is really—as a practical matter, there is a rate that resulted from those jobs from that agreement and that would be the rate as of January 20. It doesn't seem to me you gain a heck of a lot and it is so confusing when you start to tear it down two, three, four days at a time.

[215] Mrs. Cappello: Well, I think it is relevant to the case, though.

By Mrs. Cappello:

Q. So on January 13, 1969, would you give us the rates, Mr. McKibbin. A. On January 13, 1969, the day rate would have been $2.64 and the night rate would have been $2.81½.

Q. Now, January 20. A. On January 20, 1969, using T-6, and resulting from the same agreement, the day rate was $2.74½ and the night rate was actually eliminated. The job was eliminated. But employees who had service as of January 20, 1969, and who went on the night shift,

steady night shift I should say, would have received $2.83½ as a red circle rate.

Then on November 3, 1969, using T-5, the day rate would have been $2.86½ and the red circle rate on the night shift would have been $2.95½.

January 5, 1970, using T-4, the day rate is $2.89½ and the red circle rate on the night shift would be $2.98½.

November 2, 1970, using T-3, the day rate was $3.01 and the red circle rate on the night shift would be $3.10½.

And on January 4, 1971, using T-2, the day rate would be $3.04 and the red circle rate on the night shift would be $3.13½, all subject to verification that my longhand arithmetic is accurate.

[216] Q. Would you give us the same calculation for quality inspectors? A. It will take time.

Q. All right.

Mr. Zimmerman: Perhaps you can determine, first of all, whether quality inspectors is like either of the other two.

The Witness: It isn't.

(Discussion off the record.)

By Mrs. Cappello:

Q. Mr. McKibbin, would you now tell us the rates of quality inspectors on the day, afternoon and night shifts with seniority as of January 20, 1969, since October 2, 1966. A. Subject to the same considerations that I cited in the last question, the rates I have developed are as follows: 10/2/66, in accordance with T-16, the day rate was $2.33½, and the rate for the steady night shift was $2.56.

11/1/66, in accordance with T-13, the rates became $2.39½ on the day shift and $2.62 on the night shift.

Plaintiff's Exhibit 6.

Q. When you say day shift, you also mean day and afternoon? A. Yes, ma'am. And when I say night shift, I mean steady nights.

Q. All right. [217] A. As of 11/1/67, in accordance with T-11, the day rate became $2.49 and the night rate became $2.72½.

And on January 13, 1969, using T-10, the day rate for that brief period of time was $2.69 and the rate for the steady night shift was $2.94½.

Then on January 20, 1969, using T-6, the day rate became $2.79; the night shift job was cancelled as such and the incumbent—scratch "incumbent"—the employees with seniority became entitled to a red circle rate of $2.96½.

And on November 3, 1969, using T-5, the day rate became $2.91 and the red circle rate on the night shift became $3.08½.

On January 5, 1970, using T-4, the day rate became $2.94 and the red circle rate for employees on the steady night shift became $2.11½.

Q. Wait a minute, $2.11½? $3.11? A. Beg your pardon, $3.11½.

On November 2, 1970, using T-3, the day rate became $3.06 and the red circle rate on the night shift became $3.24.

And on January 4, 1971, according to T-2, the day rate became $3.09 and the red circle rate on the night shift became $3.27.

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Exhibit T-1 to Plaintiff's Exhibit 6.

WELLSBORO PLANT – RATE SCHEDULE

EFFECTIVE DATE	ISSUED DATE	DESCRIPTION	CANCELS SHEET EFFECTIVE	
1-4-71	12-18-70	C/L-II	11-2-70	
11-2-70	10-16-70	Genl. Increase	1-5-70	
1-5-70	12-22-69	C/L-I	11-3-69	
11-3-69	10-6-69	G. I.	1-20-69	
1-20-69	1-14-69	C.G.W. JE	–	
11-4-68	1-14-69	G.I.	11-1-67	
11-1-67	10-5-67	G.I.	11-1-66	Exh.–F-3
11-1-66	10-20-66	G.I.	11-1-65	Exh.–F-2
11-1-65	1-17-66	G.I.	1-18-65	Exh.–F-1
1-18-65	1-14-65	Rate Adj.	11-2-64	
11-4-64	10-21-64	G.I.	1-20-64	Exh. B-2-M; C-2 F
1-20-69	1-31-64	G.I.	11 19-62	Exh. B-1-M; C-1 F
11-19-62	1-14-63	G.I.	12-4-61	
12-4-61	1-22-62	G.I.	11-28-60	
11-28-60	12-27-60	G.I.	11-30-59	
11-30-59	12-19-59	G.I.	12-1-58	
12-1-58	12-2-58	G.I.	11-25-57	
11-25-57	12-2-57	G.I.	11-26-56	
11-26-56	11-27-56	G.I.	10-24-55	
10-24-55	10-28-55	G.I.	11-22-54	
11-22-54	11-22-54	G.I.	10-19-53	
10-19-53	10-30-53	G.I.	11-3-52	
11-3-52	2-7-53	G.I.	10-22-51	
10-22-51	11-1-57	G.I.	10-9-50	
10-9-50	10-7-50	G.I.	11-14-48	
11-19-43	11-13-48	G.I.	–	
10-20-47	10-24-47	G.I.	–	
10-21-46	10-24-46	G.I.	–	
1-6-46	1-12-46	G.I.	–	

Exhibit T-2 to Plaintiff's Exhibit 6.

Corning Glass Works, Industrial Relations Procedure, Hourly Employes

101B, HOURLY RATE PROCEDURE—Merit Plan

Supplement A, Hourly Rate Schedule

Cancels: 11-2-70
Effective: 1-4-71

WELLSBORO, PENNSYLVANIA

Gp. No.	Point Schedule Min.	Point Schedule Max.	Trainee Start	Rate Schedule Minimum	2nd	1&1-Pt.	4th	Maximum
1	885	900			$2.755 a	$2.79 b	$2.835	$2.885
2	905	925		$2.755 a	2.79 b	2.835	2.885	2.935
3	930	950	$2.755 a	2.79 b	2.835	2.885	2.935	3.005 c
4	955	975	2.755 a	2.835	2.885	2.935	3.005	3.04
5	980	1000	2.755 a	2.885	2.935	3.005	3.04	3.09
6	1005	1025	2.79 b	2.935	3.005	3.04	3.09	3.135
7	1030	1055	2.835	3.005	3.04	3.09	3.135	3.195
8	1060	1085	2.885	3.04	3.09	3.135	3.195	3.27
9	1090	1115	2.935	3.09	3.135	3.195	3.27	3.345
10	1120	1150	3.005	3.135	3.195	3.27	3.345	3.435
11	1155	1185	3.04	3.195	3.27	3.345	3.435	3.53
12	1190	1220	3.09	3.27	3.345	3.435	3.53	3.625
13	1225	1260	3.135	3.345	3.435	3.53	3.625	3.71
14	1265	1300	3.195	3.435	3.53	3.625	3.71	3.815
15	1305	1340	3.27	3.53	3.625	3.71	3.815	3.925
16	1345	1380	3.345	3.625	3.71	3.815	3.925	4.06
17	1385	1420	3.435	3.71	3.815	3.925	4.06	4.19
18	1425	1460	3.53	3.815	3.925	4.06	4.09	4.335

a) Time progression increase due after one (1) month.

b) Time progression increase due after three (3) months.

c) On transfer to an equal or lower rated job:

1. An employe in or below this rate range will receive credit for service towards his six (6) month control period for merit progression.

2. An employe at or above this rate should not be reduced below it except to the highest rate in the rate range.

GHB/rg
12-18-70

Exhibit T-3 to Plaintiff's Exhibit 6.

Corning Glass Works, Industrial Relations Procedure, Hourly Employes

101B, Hourly Rate Procedure--Merit Plan

Supplement A, HOURLY RATE STRUCTURE

Cancels: 1-5-70
Effective: 11-2-70

WELLSBORO, PENNSYLVANIA

Gp. No.	Point Schedule Min.	Point Schedule Max.	Trainee Start	Rate Schedule Minimum	2nd	Mid-Pt.	4th	Maximum
1	885	900	$	$	$2.73 a	$2.76 b	$2.805	$2.855
2	905	925		2.73 a	2.76 b	2.805	2.855	2.905
3	930	950	2.73 a	2.76 b	2.805	2.855	2.905	2.975 c
4	955	975	2.73 a	2.805	2.855	2.905	2.975	3.01
5	980	1000	2.73 a	2.855	2.905	2.975	3.01	3.06
6	1005	1025	2.76 b	2.905	2.975	3.01	3.06	3.105
7	1030	1055	2.805	2.975	3.01	3.06	3.105	3.165
8	1060	1085	2.855	3.01	3.06	3.105	3.165	3.24
9	1090	1115	2.905	3.06	3.105	3.165	3.24	3.31
10	1120	1150	2.975	3.105	3.165	3.24	3.31	3.40
11	1155	1185	3.01	3.165	3.24	3.31	3.40	3.495
12	1190	1220	3.06	3.24	3.31	3.40	3.495	3.59
13	1225	1260	3.105	3.31	3.40	3.495	3.59	3.675
14	1265	1300	3.165	3.40	3.495	3.59	3.675	3.775
15	1305	1340	3.24	3.495	3.59	3.675	3.775	3.885
16	1345	1380	3.31	3.59	3.675	3.775	3.885	4.02
17	1385	1420	3.40	3.675	3.775	3.885	4.02	4.15
18	1425	1460	3.495	3.775	3.885	4.02	4.15	4.29

a) Time progression increase due after one (1) month,

b) Time progression increase due after three (3) months.

c) On transfer to an equal or lower rated job:

1) An employe in or below this rate range will receive credit for service toward his six (6) month control period for merit progression.

2) An employe at or above this rate should not be reduced below it except to the highest rate in the rate range.

GHB/ep
October 16, 1970

Exhibit T-4 to Plaintiff's Exhibit 6.

Corning Glass Works, Industrial Relations Procedure, Hourly Employes

101B, Hourly Rate Procedure–Merit Plan

Supplement A, HOURLY RATE STRUCTURE

Cancels: 11-3-69
Effective: 1-5-70

WELLSBORO, PENNSYLVANIA

Gp. No.	Point Schedule Min.	Point Schedule Max.	Trainee Start	Rate Schedule Minimum	2nd	Mid-Pt.	4th	Maximum
1	885	900	$	$	$2.625 a	$2.655 b	$2.695	$2.745
2	905	925		2.625 a	2.655 b	2.695	2.745	2.795
3	930	950	$2.625 a	2.655 b	2.695	2.745	2.795	2.86 c
4	955	975	2.625 a	2.695	2.745	2.795	2.86	2.895
5	980	1000	2.625 a	2.745	2.795	2.86	2.895	2.94
6	1005	1025	2.655 b	2.795	2.86	2.895	2.94	2.985
7	1030	1055	2.695	2.86	2.895	2.94	2.985	3.045
8	1060	1085	2.745	2.895	2.94	2.985	3.045	3.115
9	1090	1115	2.795	2.94	2.985	3.045	3.115	3.185
10	1120	1150	2.86	2.985	3.045	3.115	3.185	3.27
11	1155	1185	2.895	3.045	3.115	3.185	3.27	3.36
12	1190	1220	2.94	3.115	3.185	3.27	3.36	3.45
13	1225	1260	2.985	3.185	3.27	3.36	3.45	3.535
14	1265	1300	3.045	3.27	3.36	3.45	3.535	3.63
15	1305	1340	3.115	3.36	3.45	3.535	3.63	3.735
16	1345	1380	3.185	3.45	3.535	3.63	3.735	3.865
17	1385	1420	3.27	3.535	3.63	3.735	3.865	3.99
18	1425	1460	3.36	3.63	3.735	3.865	3.99	4.125

a) Time progression increase due after one (1) month.

b) Time progression increase due after three (3) months.

c) On transfer to an equal or lower rated job:

1. An employe in or below this rate range will receive credit for service toward his six (6) month control period for merit progression.

2. An employe at or above this rate should not be reduced below it except to the highest rate in the rate range.

GHB/khc
December 22, 1969

Exhibit T-5 to Plaintiff's Exhibit 6.

Corning Glass Works, Industrial Relations Procedure, Hourly Employes

101B, Hourly Rate Procedure--Merit Plan

Supplement A, HOURLY RATE STRUCTURE

Cancels: 1-20-69
Effective: 11-3-69

WELLSBORO, PENNSYLVANIA

Gp. No.	Point Schedule Min.	Point Schedule Max.	Trainee Start	Min.	2nd	Mid-Point	4th	Max.
1	885	900	$	$	$2.60 a	$2.63 b	$2.67	$2.72
2	905	925		2.60 a	2.63 b	2.67	2.72	2.765
3	930	950	2.60 a	2.63 b	2.67	2.72	2.765	2.83 c
4	955	975	2.60 a	2.67	2.72	2.765	2.83	2.865
5	980	1000	2.60 a	2.72	2.765	2.83	2.865	2.91
6	1005	1025	2.63 b	2.765	2.83	2.865	2.91	2.955
7	1030	1055	2.67	2.83	2.865	2.91	2.955	3.013
8	1060	1085	2.72	2.865	2.91	2.955	3.015	3.085
9	1090	1115	2.765	2.91	2.955	3.015	3.085	3.155
10	1120	1150	2.83	2.955	3.015	3.085	3.155	3.24
11	1155	1185	2.865	3.015	3.085	3.155	3.24	*3.325
12	1190	1220	2.91	3.085	3.155	3.24	3.325	3.415
13	1225	1260	2.955	3.155	3.24	3.325	3.415	3.50
14	1265	1300	3.015	3.24	3.325	3.415	3.50	3.595
15	1305	1340	3.085	3.325	3.415	3.50	3.595	3.70
16	1345	1380	3.155	3.415	3.50	3.595	3.70	3.825
17	1385	1420	3.24	3.50	3.595	3.70	3.825	3.95
18	1425	1460	3.325	3.595	3.70	3.825	3.95	4.085

a) Time progression increase due after one (1) month.

b) Time progression increase due after three (3) months.

c) On transfer to an equal or lower rated job:

1. An employe in or below this rate range will receive credit for service toward his six (6) month control period for merit progression.

2. An employe at or above this rate should not be reduced below it except to the highest rate in the rate range.

*Corrected 10-28-69

GHB/khe
October 6, 1969

Exhibit T-6 to Plaintiff's Exhibit 6.

Corning Glass Works, Industrial Relations Procedure, Hourly Employes

101B Hourly Rate Procedure—Merit Plan

Supplement A. HOURLY RATE STRUCTURE

Cancels: 11-04-68
Effective: 1-20-69

WELLSBORO, PENNSYLVANIA

Gp. No.	Point Schedule Min.	Point Schedule Max.	Trainee Start	Min.	2nd	Mid-Pt.	4th	Max.
1	885	900	$	$	$2.48 a	$2.51 b	$2.55	$2.60
2	905	925		2.48 a	2.51 b	2.55	2.60	2.645
3	930	950	2.48 a	2.51 b	2.55	2.60	2.645	2.71 c
4	955	975	2.48 a	2.55	2.60	2.645	2.71	2.745
5	980	1000	2.48 a	2.60	2.645	2.71	2.745	2.79
6	1005	1025	2.51 b	2.645	2.71	2.745	2.79	2.835
7	1030	1055	2.55	2.71	2.745	2.79	2.835	2.895
8	1060	1085	2.60	2.745	2.79	2.835	2.895	2.965
9	1090	1115	2.645	2.79	2.835	2.895	2.965	3.035
10	1120	1150	2.71	2.835	2.895	2.965	3.035	3.12
11	1155	1185	2.745	2.895	2.965	3.035	3.12	3.205
12	1190	1220	2.79	2.965	3.035	3.12	3.205	3.295
13	1225	1260	2.835	3.035	3.12	3.205	3.295	3.38
14	1265	1300	2.895	3.12	3.205	3.295	3.38	3.475
15	1305	1340	2.965	3.205	3.295	3.38	3.475	3.58
16	1345	1380	3.035	3.295	3.38	3.475	3.58	3.705
17	1385	1420	3.12	3.38	3.475	3.58	3.705	3.83
18	1425	1460	3.205	3.475	3.58	3.705	3.83	3.965

a) Time progression increase due after one (1) month.

b) Time progression increase due after three (3) months.

c) On transfer to an equal or lower rated job;

1. An employe in or below this rate range will receive credit for service toward his six (6) month control period for merit progression.

2. An employe at or above this rate should not be reduced below it except to the highest rate in the rate range.

GHB/cp
1-20-69 Additional copies available

Exhibit T-7 to Plaintiff's Exhibit 6.

WELLSBORO
CONVERSION SCHEDULE
Cancels: 11-1-67
Effective: 11-4-68

REGULAR SCHEDULE

Gp. #	Tr.	Min.	Max.
1	2.425		2.54
2	2.455		2.585
3	2.50		2.64
4	2.54		2.69
5	2.54		2.755
6	2.54	2.585	2.815
7	2.54	2.64	2.875
8	2.54	2.69	2.945
9	2.585	2.755	3.015
10	2.64	2.815	3.10
11	2.69	2.875	3.185
12	2.755	2.945	3.285
13	2.815	3.015	3.36
14	2.875	3.10	3.445
15	2.945	3.185	3.54
16	3.015	3.285	3.63
17	3.10	3.36	3.715
18	3.185	3.445	3.82

IRREGULAR SCHEDULE

Gp. #	Tr.	Min.	Max.
4.2		2.64	2.69
11.1		3.015	3.185
13.3		3.10	3.36
15.2		3.185	3.54
15.3		3.285	3.54
17.1		3.36	3.715
17.3		3.445	3.715
18.1		3.445	3.82

Exhibit T-8 to Plaintiff's Exhibit 6.

S J & H PLAN RATE STEP TABLE

Rate Grp.	Rate Step #1	Rate Step #2	Rate Step #3	Rate Step #4	Rate Step #5	Rate Step #6	Rate Step #7	Rate Shown or Higher #8
1					Up to-2.450	2.455-2.495	2.500-2.535	2.540
2					Up to-2.495	2.500-2.535	2.540-2.580	2.585
3					Up to-2.535	2.540-2.580	2.585-2.635	2.640
4					Up to-2.580	2.585-2.635	2.640-2.685	2.690
5				Up to-2.580	2.585-2.635	2.640-2.685	2.690-2.750	2.755
6			Up to-2.580	2.585-2.635	2.640-2.685	2.690-2.750	2.755-2.810	2.815
7		Up to-2.580	2.585-2.635	2.640-2.685	2.690-2.750	2.755-2.810	2.815-2.870	2.875
8	Up to-2.580	2.585-2.635	2.640-2.685	2.690-2.750	2.755-2.810	2.815-2.870	2.875-2.940	2.945
9	Up to 2.635	2.640-2.685	2.690-2.750	2.755-2.810	2.815-2.870	2.875-2.940	2.945-3.010	3.015
10	Up to 2.685	2.690-2.750	2.755-2.810	2.815-2.870	2.875-2.940	2.945-3.010	3.015-3.095	3.100
11	Up to 2.750	2.755-2.810	2.815-2.870	2.875-2.940	2.945-3.010	3.015-3.095	3.100-3.180	3.185
12	Up to 2.810	2.815-2.870	2.875-2.940	2.945-3.010	3.015-3.095	3.100-3.180	3.185-3.280	3.285
13	Up to 2.870	2.875-2.940	2.945-3.010	3.015-3.095	3.100-3.180	3.185-3.280	3.285-3.355	3.360
14	Up to 2.940	2.945-3.010	3.015-3.095	3.100-3.180	3.185-3.280	3.285-3.355	3.360-3.440	3.445
15	Up to 3.010	3.015-3.095	3.100-3.180	3.185-3.280	3.285-3.355	3.360-3.440	3.445-3.535	3.540
16	Up to 3.095	3.100-3.180	3.185-3.280	3.285-3.355	3.360-3.440	3.445-3.535	3.540-3.625	3.630
17	Up to 3.180	3.185-3.280	3.285-3.355	3.360-3.440	3.445-3.535	3.540-3.625	3.630-3.710	3.715
18	Up to 3.280	3.285-3.355	3.360-3.440	3.445-3.535	3.540-3.625	3.630-3.710	3.715-3.815	3.820

GHB/cp
Date 1-20-69

CGW PLAN RATE STEP TABLE

Evaluation Points Minimum – Maximum			Rate Grp.	RATE STEPS 1st	2nd	3rd	4th	5th	6th	7th	8th
0885	thru	0900	1	2.480	2.480	2.480	2.480	2.480	2.510	2.550	2.600
0905	thru	0925	2	2.480	2.480	2.480	2.480	2.510	2.550	2.600	2.645
0930	thru	0950	3	2.480	2.480	2.480	2.510	2.550	2.600	2.645	2.710
0955	thru	0975	4	2.480	2.480	2.510	2.550	2.600	2.645	2.710	2.745
0980	thru	1000	5	2.480	2.510	2.550	2.600	2.645	2.710	2.745	2.790
1005	thru	1025	6	2.510	2.550	2.600	2.645	2.710	2.745	2.790	2.835
1030	thru	1055	7	2.550	2.600	2.645	2.710	2.745	2.790	2.835	2.895
1060	thru	1085	8	2.600	2.645	2.710	2.745	2.790	2.835	2.895	2.965
1090	thru	1115	9	2.645	2.710	2.745	2.750	2.835	2.895	2.965	3.035
1120	thru	1150	10	2.710	2.745	2.790	2.835	2.895	2.965	3.035	3.120
1155	thru	1185	11	2.745	2.790	2.835	2.895	2.965	3.035	3.120	3.205
1190	thru	1220	12	2.790	2.835	2.895	2.965	3.035	3.120	3.205	3.295
1225	thru	1260	13	2.835	2.895	2.965	3.035	3.120	3.205	3.295	3.380
1265	thru	1300	14	2.895	2.965	3.035	3.120	3.205	3.295	3.380	3.475
1305	thru	1340	15	2.965	3.035	3.120	3.205	3.295	3.380	3.475	3.580
1345	thru	1380	16	3.035	3.120	3.205	3.295	3.380	3.475	3.500	3.705
1385	thru	1420	17	3.120	3.205	3.295	3.380	3.475	3.580	3.705	3.830
1425	thru	1460	18	3.205	3.295	3.380	3.475	3.580	3.705	3.830	3.965

Exhibit T-9 to Plaintiff's Exhibit 6.

Exhibit T-10 to Plaintiff's Exhibit 6.

SCHEDULE FOR
DERIVING RATE RANGES AND STEPS
WELLSBORO
Cancels Sheet Effective November 1, 1967
Effective November 4, 1968

Grp. No. New	Trainee Starting Rate	Min.	RATE SCHEDULE 2nd	Midpoint	4th	Max.
1			$2.425 a	$2.455 b	$2.50	$2.54
2			2.455 a	2.50 b	2.54	2.585
3			2.50 a	2.54 b	2.585	2.64
4			2.54 a	2.585 b	2.64	2.69 c
5		$2.54 a	2.585 b	2.64	2.69	2.755
6	$2.54 a	2.585 b	2.64	2.69	2.755	2.815
7	2.54 a	2.64	2.69	2.755	2.815	2.875
8	2.54 a	2.69	2.755	2.815	2.875	2.945
9	2.585 b	2.755	2.815	2.875	2.945	3.015
10	2.64	2.815	2.875	2.945	3.015	3.10
11	2.69	2.875	2.945	3.015	3.10	3.185
12	2.755	2.945	3.015	3.10	3.185	3.285
13	2.815	3.015	3.10	3.185	3.285	3.36
14	2.875	3.10	3.185	3.285	3.36	3.445
15	2.945	3.185	3.285	3.36	3.445	3.54
16	3.015	3.285	3.36	3.445	3.54	3.63
17	3.10	3.36	3.445	3.54	3.63	3.715
18	3.185	3.445	3.54	3.63	3.715	3.82

a) Time progression increase due after one (1) month at this rate.

b) Time progression increase due after three (3) months at this rate.

c) On transfer to an equal or lower rated job:

1. An employe in or below this rate range will receive credit for service toward his six (6) month control period for merit progression.

2. An employe at or above this rate should not be reduced below it except to the highest rate in the rate range.

GHB/cp
1-14-69

Exhibit T-11 to Plaintiff's Exhibit 6.

SCHEDULE FOR
DERIVING RATE RANGES AND STEPS
WELLSBORO
Cancels Sheet Effective November 1, 1966
Effective November 1, 1967

Grp. No. New	Trainee Starting Rate	RATE SCHEDULE Min.	2nd	Midpoint	4th	Max.
1			$2.225 a	$2.255 b	$2.30	$2.34
2			2.255 a	2.30 b	2.34	2.385
3			2.30 a	2.34 b	2.385	2.44
4			2.34 a	2.385 b	2.44	2.49 c
5		$2.34 a	2.385 b	2.44	2.49	2.55
6	$2.34 a	2.385 b	2.44	2.49	2.55	2.605
7	2.34 a	2.44	2.49	2.55	2.605	2.66
8	2.34 a	2.49	2.55	2.605	2.66	2.725
9	2.385 b	2.55	2.605	2.66	2.725	2.79
10	2.44	2.605	2.66	2.725	2.79	2.87
11	2.49	2.66	2.725	2.79	2.87	2.95
12	2.55	2.725	2.79	2.87	2.95	3.04
13	2.605	2.79	2.87	2.95	3.04	3.11
14	2.66	2.87	2.95	3.04	3.11	3.19
15	2.725	2.95	3.04	3.11	3.19	3.28
16	2.79	3.04	3.11	3.19	3.28	3.36
17	2.87	3.11	3.19	3.28	3.36	3.44
18	2.95	3.19	3.28	3.36	3.44	3.535
19	3.04	3.28	3.36	3.44	3.535	3.645
20	3.11	3.36	3.44	3.535	3.645	3.74
21	3.19	3.44	3.535	3.645	3.74	3.84
22	3.28	3.535	3.645	3.74	3.84	3.95
23	3.36	3.645	3.74	3.84	3.95	4.06

a) Time progression increase due after one (1) month at this rate.

b) Time progression increase due after three (3) months at this rate.

c) On transfer to an equal or lower rated job:

1. An employe in or below this rate range will receive credit for service toward his six (6) month control period for merit progression.

2. An employe at or above this rate should not be reduced below it except to the highest rate in the rate range.

GHB/k
10-20-67

Exhibit T-12 to Plaintiff's Exhibit 6.

WELLSBORO
CONVERSION SCHEDULE

Cancels: 11/1/66
Effective: 11/1/67

REGULAR SCHEDULE

Gp. #	Tr.	Min.	Max.
1	2.225		2.34
2	2.255		2.385
3	2.30		2.44
4	2.34		2.49
5	2.34		2.55
6	2.34	2.385	2.605
7	2.34	2.44	2.66
8	2.34	2.49	2.725
9	2.385	2.55	2.79
10	2.44	2.605	2.87
11	2.49	2.66	2.95
12	2.55	2.725	3.04
13	2.605	2.70	3.11
14	2.66	2.87	3.19
15	2.725	2.95	3.28
16	2.79	3.04	3.36
17	2.87	3.11	3.44
18	2.95	3.19	3.535
19	3.04	3.28	3.645
20	3.11	3.36	3.74
21	3.19	3.44	3.94
22	3.28	3.535	3.95
23	3.36	3.645	4.06

IRREGULAR SCHEDULE

Gp. #	Tr.	Min.	Max.
4.2		2.44	2.49
11.1		2.79	2.95
13.3		2.87	3.11
15.2		2.95	3.20
15.3		3.04	3.28
17.1		3.11	3.44
17.3		3.19	3.44
18.1		3.19	3.535

GHB/mmt
October 2, 1967

Exhibit T-13 to Plaintiff's Exhibit 6.

SCHEDULE
FOR
DERIVING RATE RANGES AND STEPS

WELLSBORO
Cancels Sheet Effective November 1, 1965
Effective November 1, 1966

Grp. No. New	Trainee Starting Rate	Rate Schedule				
		Minimum	2nd	Midpoint	4th	Maximum
1	$	$	$2.14 (a)	$2.17 (b)	$2.21	$2.25
2			2.17 (a)	2.21 (b)	2.25	2.295
3			2.21 (a)	2.25 (b)	2.295	2.345
4			2.25 (a)	2.295 (b)	2.345	2.395
5		2.25 (a)	2.295 (b)	2.345	2.395	2.45
6	2.25 (a)	2.295 (b)	2.345	2.395	2.45	2.505
7	2.25 (a)	2.345	2.395	2.45	2.505	2.56
8	2.25 (a)	2.395	2.45	2.505	2.56	2.62
9	2.295 (b)	2.45	2.505	2.56	2.62	2.685
10	2.345	2.505	2.56	2.62	2.685	2.76
11	2.395	2.56	2.62	2.685	2.76	2.835
12	2.45	2.62	2.685	2.76	2.835	2.835
13	2.505	2.685	2.76	2.835	2.925	2.835
14	2.56	2.76	2.835	2.925	2.99	3.065
15	2.62	2.835	2.925	2.99	3.065	3.155
16	2.685	2.925	2.99	3.065	3.155	3.23
17	2.76	2.99	3.065	3.155	3.23	3.31
18	2.835	3.065	3.155	3.23	3.31	3.40
19	2.925	3.155	3.23	3.31	3.40	3.505
20	2.99	3.23	3.31	3.40	3.505	3.595
21	3.065	3.31	3.40	3.505	3.595	3.69
22	3.155	3.40	3.505	3.595	3.69	3.80
23	3.23	3.505	3.595	3.69	3.80	3.905

(a) Time progression increase due after one (1) month at this rate.

(b) Time progression increase due after three (3) months at this rate.

GHB/mmt
10/20/66

Exhibit T-14 to Plaintiff's Exhibit 6.

WELLSBORO

CONVERSION SCHEDULE

Cancels: 11/1/65
Effective: 11/1/66

REGULAR SCHEDULE

Gp. #	Tr.	Min.	Max.
1	2.14		2.245
2	2.17		2.29
3	2.21		2.345
4	2.25		2.395
5	2.25		2.45
6	2.25	2.29	2.505
7	2.25	2.345	2.56
8	2.25	2.395	2.62
9	2.29	2.45	2.685
10	2.345	2.505	2.76
11	2.395	2.56	2.835
12	2.45	2.62	2.925
13	2.505	2.685	2.99
14	2.56	2.76	3.065
15	2.62	2.835	3.155
16	2.685	2.925	3.23
17	2.76	2.99	3.31
18	2.835	3.065	3.40
19	2.925	3.155	3.505
20	2.99	3.23	3.595
21	3.065	3.31	3.69
22	3.155	3.40	3.80
23	3.23	3.505	3.905

IRREGULAR SCHEDULE

Gp. #	Tr.	Min.	Max.
4.2		2.345	2.395
11.1		2.685	2.835
13.3		2.76	2.99
15.2		2.835	3.155
15.3		2.925	3.155
17.1		2.99	3.31
17.3		3.065	3.31
18.1		3.065	3.40

GHB/ck
October 14, 1966

Exhibit T-15 to Plaintiff's Exhibit 6.

SCHEDULE
FOR
DERIVING RATE RANGES AND STEPS
WELLSBORO
Cancels Sheet Effective January 18, 1965
Effective November 1, 1965
RATE SCHEDULE

Gr. # New	Trainee	Min.	2nd	Mid.	4th	Max.
1	2.08 (a)			2.11 (b)	2.15	2.19
2	2.11 (a)			2.15 (b)	2.19	2.235
3	2.15 (a)			2.19 (b)	2.235	2.285
4	2.19 (a)			2.235 (b)	2.285	2.335
5	2.19 (a)		2.235 (b)	2.285	2.335	2.39
6	2.19 (a)	2.235 (b)	2.285	2.335	2.39	2.445
7	2.19 (a)	2.285	2.335	2.39	2.445	2.50
8	2.19 (a)	2.335	2.39	2.445	2.50	2.56
9	2.235 (b)	2.39	2.445	2.50	2.56	2.625
10	2.285	2.445	2.50	2.56	2.625	2.70
11	2.335	2.50	2.56	2.625	2.70	2.775
12	2.39	2.56	2.625	2.70	2.775	2.865
13	2.445	2.625	2.70	2.775	2.865	2.93
14	2.50	2.70	2.775	2.865	2.93	3.005
15	2.56	2.775	2.865	2.93	3.005	3.095
16	2.625	2.865	2.93	3.005	3.095	3.17
17	2.70	2.93	3.005	3.095	3.17	3.25
18	2.775	3.005	3.095	3.17	3.25	3.34
19	2.865	3.095	3.17	3.25	3.34	3.445
20	3.93	3.17	3.25	3.34	3.445	3.535
21	3.005	3.25	3.34	3.445	3.535	3.63
22	3.095	3.34	3.445	3.535	3.63	3.74
23	3.17	3.445	3.535	3.63	3.74	3.845

(a) Time progression increase due after one (1) month at this rate.
(b) Time progression increase due after three (3) months at this rate.

GHB:lh
January 17, 1966

Exhibit T-16 to Plaintiff's Exhibit 6.

CONVERSION SCHEDULE
Cancels Sheet Effective January 18, 1965
Effective November 1, 1965
Wellsboro

REGULAR SCHEDULE

Gr. #	Tr.	Min.	Max.
1	2.08		2.185
2	2.11		2.23
3	2.15		2.285
4	2.19		2.335
5	2.19		2.39
6	2.19	2.23	2.445
7	2.19	2.285	2.50
8	2.19	2.335	2.56
9	2.23	2.39	2.625
10	2.285	2.445	2.70
11	2.335	2.50	2.775
12	2.39	2.56	2.865
13	2.445	2.625	2.93
14	2.50	2.70	3.005
15	2.56	2.775	3.095
16	2.625	2.865	3.17
17	2.70	2.93	3.25
18	2.775	3.005	3.34
19	2.865	3.095	3.445
20	2.93	3.17	3.535
21	3.005	3.25	3.63
22	3.095	3.34	3.74
23	3.17	3.445	3.845

IRREGULAR SCHEDULE

Gr. #	Tr.	Min.	Max.
4.2		2.285	2.335
11.1		2.625	2.775
13.3		2.70	2.93
15.2		2.775	3.095
15.3		2.865	3.095
17.1		2.93	3.25
17.3		3.005	3.25
18.1		3.005	3.34

GHB:lh
January 17, 1966

Exhibit T-17 to Plaintiff's Exhibit 6.

HOURLY GROUP NUMBER CONVERSION TABLE

WELLSBORO PLANT

IRREGULAR SCHEDULE			REGULAR SCHEDULE		
Present Group Number		New Group Number	Present Group Number		New Group Number
Male	Female		Male	Female	
				1,2,3&4A	1
				5A	2
			1	6A	3
	7.2A	4.2	2	7,& 8A	4
			3		5
			4		6
			5		7
9.1 & Above		Add 2 to present Group Number.	& Above		Add 2 to present Group Number.

SJM/pb
January 14, 1965

Exhibit T-18 to Plaintiff's Exhibit 6.

SCHEDULE
FOR
DERIVING RATE RANGES AND STEPS
WELLSBORO, PENNSYLVANIA
Cancels Sheet Effective November 2, 1964
Effective January 18, 1965

Gp.No. New	Trainee	RATE SCHEDULE Min.	2nd	Mid.	4th	Max.
1	$1.98 (a)			$2.01 (b)	$2.05	$2.09
2	2.01 (a)			2.05 (b)	2.09	2.135
3	2.05 (a)			2.09 (b)	2.135	2.185
4	2.09 (a)			2.135 (b)	2.185	2.235
5	2.09 (a)		$2.135 (b)	2.185	2.235	2.285
6	2.09 (a)	$2.135 (b)	2.185	2.235	2.285	2.34
7	2.09 (a)	2.185	2.235	2.285	2.34	2.39
8	2.09 (a)	2.235	2.285	2.34	2.39	2.45
9	2.135 (b)	2.285	2.34	2.39	2.45	2.51
10	2.185	2.34	2.39	2.45	2.51	2.585
11	2.235	2.39	2.45	2.51	2.585	2.655
12	2.285	2.45	2.51	2.585	2.655	2.74
13	2.34	2.51	2.585	2.655	2.74	2.805
14	2.39	2.585	2.655	2.74	2.805	2.875
15	2.45	2.655	2.74	2.805	2.875	2.96
16	2.51	2.74	2.805	2.875	2.96	3.035
17	2.585	2.805	2.875	2.96	3.035	3.11
18	2.655	2.875	2.96	3.035	3.11	3.195
19	2.74	2.96	3.035	3.11	3.195	3.295
20	2.805	3.035	3.11	3.195	3.295	3.385
21	2.875	3.11	3.195	3.295	3.385	3.475
22	2.96	3.195	3.295	3.385	3.475	3.58
23	3.035	3.295	3.385	3.475	3.58	3.68
24						
25						
26						
27						

(a) Time progression increase due after one (1) month at this rate.
(b) Time progression increase due after three (3) months at this rate.

/pb
January 14, 1965

Exhibit T-19 to Plaintiff's Exhibit 6.

CONVERSION SCHEDULE

Cancels sheet dated November 2, 1964

Effective Janurary 18, 1965

IRREGULAR SCHEDULE				REGULAR SCHEDULE			
Grp.	Train.	Min.	Max.	Grp.	Train.	Min.	Max.
				1	1.98		2.09
				2	2.01		2.135
				3	2.05		2.185
4.2		2.185	2.235	4	2.09		2.235
				5	2.09		2.285
				6	2.09	2.135	2.34
				7	2.09	2.185	2.39
				8	2.09	2.235	2.45
				9	2.135	2.285	2.51
				10	2.185	2.34	2.585
11.1		2.51	2.655	11	2.235	2.39	2.655
				12	2.285	2.45	2.74
13.3		2.585	2.805	13	2.34	2.51	2.805
				14	2.39	2.585	2.875
15.2		2.655	2.96	15	2.45	2.655	2.96
15.3		2.74	2.96	16	2.51	2.74	3.035
				17	2.585	2.805	3.11
17.1		2.805	3.11	18	2.655	2.875	3.195
				19	2.74	2.96	3.295
17.3		2.875	3.11	20	2.805	3.035	3.385
				21	2.875	3.11	3.475
18.1		2.875	3.195	22	2.96	3.195	3.58
				23	3.035	3.295	3.68

Exhibit T-20 to Plaintiff's Exhibit 6.

MALE SCHEDULE FOR
DERIVING RATE RANGES AND STEPS
Cancels Sheet Effective 1/20/64
Effective November 2, 1964

Wage Gp. No.	Job. Eval. Points	Trainee Hourly Starting Rate	Min. of Rate Range		Midpt.		Max. of Rate Range
1	Up to 160	$2.085		$	$	$2.13	$2.185
2	165-235	2.085			2.13	2.185	2.235
3	240-295	2.085		2.13	2.185	2.235	2.285
4	300-350	2.085	2.13	2.185	2.235	2.285	2.34
5	355-395	2.085	2.185	2.235	2.285	2.34	2.39
6	400-440	2.085	2.235	2.285	2.34	2.39	2.45
7	445-485	2.13	2.285	2.34	2.39	2.45	2.51
8	490-535	2.185	2.34	2.39	2.45	2.51	2.585
9	540-570	2.235	2.39	2.45	2.51	2.585	2.655
10	575-600	2.285	2.45	2.51	2.585	2.655	2.74
11	605-630	2.34	2.51	2.585	2.655	2.74	2.805
12	635-660	2.39	2.585	2.655	2.74	2.805	2.875
13	665-685	2.45	2.655	2.74	2.805	2.875	2.96
14	690-710	2.51	2.74	2.805	2.875	2.96	3.035
15	715-730	2.585	2.805	2.875	2.96	3.035	3.11
16	735-755	2.655	2.875	2.96	3.035	3.11	3.195
17	760-775	2.74	2.96	3.035	3.11	3.195	3.295
18	780-795	2.805	3.035	3.11	3.195	3.295	3.385
19	800-810	2.875	3.11	3.195	3.295	3.385	3.475
20	815-825	2.96	3.195	3.295	3.385	3.475	3.58
21	830-845	3.035	3.295	3.385	3.475	3.58	3.68
22	850-860	3.11	3.385	3.475	3.58	3.68	3.79
23	865-875	3.195	3.475	3.58	3.68	3.79	3.90
24	880-890	3.295	3.58	3.68	3.79	3.90	4.015
25	895-905	3.385	3.68	3.79	3.90	4.015	4.135
26	910-920	3.475	3.79	3.90	4.015	4.135	4.26

To: Mailing List No. 2—Hourly Rate Procedure

From: Employee Services
Industrial Relations Division

By: E. B. Lewis
/pb
10/12/64

Exhibit T-21 to Plaintiff's Exhibit 6.

FEMALE SCHEDULE FOR
DERIVING RATE RANGES AND STEPS
Cancels Sheet Effective 1/20/64
Effective November 2, 1964

Wage Gp. No.	Job. Ev. Points	Trainee Hourly Starting Rate	Min. of Rate Range		Midpt.		Max. of Rate Range
1	Up to 160	$1.98					$2.03
2	165-210	1.98				$2.03	2.05
3	215-235	1.98			$2.03	2.05	2.07
4	240-265	1.98		$2.03	2.05	2.07	2.09
5	270-295	1.98	$2.03	2.05	2.07	2.09	2.11
6	300-345	1.98	2.05	2.07	2.09	2.11	2.155
7	350-395	2.03	2.07	2.09	2.11	2.155	2.195
8	400-435	2.03	2.09	2.11	2.155	2.195	2.235
9	440-475	2.05	2.11	2.155	2.195	2.235	2.275
10	480-515	2.07	2.155	2.195	2.235	2.275	2.32
11	520-555	2.09	2.195	2.235	2.275	2.32	2.36
12	560-585	2.11	2.235	2.275	2.32	2.36	2.405
13	590-615	2.155	2.275	2.32	2.36	2.405	2.45

To: Mailing List No. 2—Hourly Rate Procedure

From: Employe Services
Industrial Relations Division

By: E. B. Lewis
/pb
10/12/64

Exhibit T-60 to Plaintiff's Exhibit 6.

Plants:
Main
Pot and Clay
Pressware
Fall Brook
Bradford
Wellsboro
Parkersburg

MALE SCHEDULE FOR DERIVING RATE RANGES AND STEPS

EFFECTIVE OCTOBER 20, 1947

Wage Gp. No.	Job Evalua. Points	Trainee Hourly Starting Rate	Inter-mediate Rate Setp	Min. Rate of Rate Range	Rate Steps			Max. Rate of Rate Range
1	Up to 160	.905					.955	1.005
2	165-235	.905				.955	1.005	1.055
3	240-295	.905			.955	1.005	1.055	1.105
4	300-350	.905		.955	1.005	1.055	1.105	1.155
5	355-395	.905		1.005	1.055	1.105	1.155	1.205
6	400-440	.905	.955	1.055	1.105	1.155	1.205	1.255
7	445-485	.955	1.005	1.105	1.155	1.205	1.255	1.31
8	490-535	1.005	1.055	1.155	1.205	1.255	1.31	1.37
9	540-570	1.055	1.103	1.205	1.255	1.31	1.37	1.425
10	575-600	1.105	1.155	1.255	1.31	1.37	1.425	1.485
11	605-630	1.155	1.205	1.31	1.37	1.425	1.485	1.54
12	635-660	1.205	1.255	1.37	1.425	1.485	1.54	1.60
13	665-685	1.255	1.31	1.425	1.485	1.54	1.60	1.665
14	690-710	1.31	1.37	1.485	1.54	1.60	1.665	1.725
15	715-730	1.37	1.425	1.54	1.60	1.665	1.725	1.78
16	735-755	1.425	1.485	1.60	1.665	1.725	1.78	1.85
17	760-775	1.485	1.54	1.665	1.725	1.78	1.85	1.925
18	780-795	1.54	1.60	1.725	1.75	1.85	1.925	1.995
19	800-810	1.60	1.665	1.78	1.85	1.925	1.995	2.065
20	815-825	1.665	1.725	1.85	1.925	1.995	2.065	2.145
21	830-845	1.725	1.78	1.925	1.995	2.065	2.145	2.23
22	850-860	1.78	1.85	1.995	2.065	2.145	2.23	2.315
23	865-875	1.85	1.925	2.065	2.145	2.23	2.315	2.395
24	880-890	1.925	1.995	2.145	2.23	2.315	2.395	2.49
25	895-905	1.995	2.065	2.23	2.315	2.395	2.49	2.585
26	910-920	2.065	2.145	2.315	2.395	2.49	2.585	2.68

Note: For use of Rate Dept., not distributed

Plants:
Main
Pot and Clay
Pressware
Fall Brook
Bradford
Wellsboro
Parkersburg

FEMALE SCHEDULE FOR DERIVING RATE RANGES AND STEPS

EFFECTIVE OCTOBER 20, 1947

Wage Gp. No.	Job Evaluation Points	Trainee Hourly Starting Rate	Intermediate Rate Step	Min. Rate of Rate Range	Rate Steps			Max. Rate of Rate Range
1	Up to 160	.805					.855	.855
2	165-210	.805				.855	.875	.875
3	215-235	.805			.855	.875	.895	.895
4	240-265	.805		.855	.875	.895	.915	.915
5	270-295	.805	.855	.875	.895	.915	.935	.935
6	300-345	.805	.875	.895	.915	.935	.975	.975
7	350-395	.855	.895	.915	.935	.975	1.015	1.015
8	400-435	.853	.915	.935	.975	1.015	1.055	1.035
9	440-475	.875	.935	.975	1.015	1.055	1.095	1.095
10	480-515	.895	.975	1.015	1.055	1.095	1.135	1.135
11	520-555	.915	1.015	1.055	1.095	1.135	1.175	1.175
12	560-585	.935	1.055	1.095	1.135	1.175	1.215	1.215
13	590-615	.975	1.095	1.135	1.175	1.215	1.255	1.255

Note: For use of Rate Department, not distributed

OPINION OF THE DISTRICT COURT.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

JAMES D. HODGSON, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

CORNING GLASS WORKS, a Corporation,

Defendant.

Civil Action No. 69-396

MUIR, District Judge.

I. *INTRODUCTION.*

This suit was commenced by the Secretary of Labor on October 2, 1969, pursuant to 29 U.S.C. Section 201, *et seq.*, the Fair Labor Standards Act ("Equal Pay Act"). Plaintiff seeks to enjoin Defendant's alleged practice of wage discrimination based on sex and to obtain restitution of unpaid wages allegedly due certain female employees of Defendant.

II. *FINDINGS OF FACT.*

1. Corning Glass Works ("Corning") is a New York Corporation having its principal offices in Corning, New York. (Stip. of Fact 2)

2. The Wellsboro plant of Corning Glass Works is the only plant involved in this case. (Stip. of Fact 2)

3. There are four separate jobs involved in this litigation: Inspector-Packer, Frost Light Inspector, Positioner-Inspector, and Quality Inspector. (Stip. of Fact 6)

4. Prior to October 16, 1966, except during World War II, only female employees worked in these inspector positions on the day shifts at the Wellsboro plant. (Stip. of Fact 8)

5. Prior to October 16, 1966, except during World War II, only male employees worked in these inspector positions on the steady night shift in the Wellsboro plant. (Stip. of Fact 9)

6. In 1947, the differential in base hourly rates between the jobs of Inspector-Packer and Inspector-Packer Nights was 19 cents an hour, the differential in base hourly rates between the jobs of Frost Light Inspector and Frost Light Inspector Nights was 18 cents an hour, and the differential in base hourly rates between the jobs of Positioner-Inspector and Positioner-Inspector Nights was 19 cents an hour. (Stip. of Facts 36, 42, 45e)

7. On October 16, 1966, these respective differentials were 20 cents an hour, 16 cents an hour, and 20 cents an hour. (Stip. of Facts 37, 43, 45f)

8. The differential in base hourly rates between the jobs of Quality Inspector and Quality Inspector Nights has increased from 20 cents an hour in 1949 to 22.5 cents an hour on October 16, 1966. (Stip. of Facts 48, 49)

9. These differentials in base rate of pay were in addition to the plant-wide shift differential which has increased from 6 cents an hour in 1947 to 12 cents an hour in 1966 for steady night work. (Stip. of Facts 21-25)

10. Since October 16, 1966, by mutual agreement between the employees' certified bargaining agent and the Company, women have been permitted to exercise their seniority, on the same basis as male employees, to claim jobs on the steady night shift when vacancies occur and to bump into such jobs during periods when the work force is being reduced. (Stip. of Facts 19, 30, 38, 44, 45a, 79, 85-88, 118, 119)

11. Male and female inspectors who work on the steady night night shift inspection jobs involved in this case have been and are paid at the same base hourly rate. (Stip. of Facts 37, 72, 74, 89, 104)

12. Male and female inspectors who work on the day shifts on the inspection jobs involved in this case have been and are paid at the same base hourly rate. (Stip. of Facts 73, 90)

13. A night shift worker is out of phase with community life and is usually out of phase with family life. (3 N.T. 199-200)

14. Night work, both steady and rotating, interferes with the worker's physiological (circadian) rhythms. (3 N.T. 200)

15. The first job evaluation plan at Corning's Wellsboro plant was effective from October 20, 1947, to January 18, 1965, and was called the Stevenson, Jordan and Harrison Plan. It is referred to as the S J & H Plan. (Stip. of Fact to which Defendant Either Makes Objection or Withdraws a Prior Objection, P-39 at page 19)

16. The S J & H Plan measured jobs by weighing the following factors: schooling, training, skill, versatility,

knowledge, responsibility, surroundings, and hazards. (Stip. of Fact to Which Defendant Either Makes Objection or Withdraws a Prior Objection, P-50 at page 14)

17. Under the S J & H Plan, the ratings of these factors differed for each inspector job but the ratings of the surroundings and hazards factors were the same for the day and night shifts for each job. (Stip. of Fact to Which Defendant Either Makes Objection or Withdraws a Prior Objection, P-50 at page 14)

III. *DISCUSSION.*

Until October 16, 1966, except during World War II, only women worked as Frost Light Inspectors, Positioner-Inspectors, Inspector-Packers and Quality Inspectors on the day shift at the Wellsboro, Pennsylvania plant of Defendant Corning Glass Works and only men were permitted to work on the night shift.[1] Plaintiff contends that because the male inspectors on the night shift received a higher hourly base rate of pay than the female inspectors on the day shift, in addition to a plant-wide shift differential, Defendant violated 29 U.S.C. Section 206(d)(1) which provides:

> "(d)(1) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by pay-

[1] Both parties agree that Plaintiff is barred from recovery for any possible violation prior to October, 1966, by the applicable statute of limitations. However, Plaintiff's claim that Defendant has violated 29 U.S.C. Section 206(d)(1) since that time is based on residual effects of the alleged prior discrimination. Accordingly, Plaintiff's case must fail if discrimination prior to October, 1966 is not proven.

ing wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: *Provided*, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee."

In my view, Plaintiff has failed to sustain its burden of proof that the male and female inspectors performed their work "under similar working conditions." Male inspectors worked on the night shift; female inspectors on the day. Plaintiff contends that the time of day worked is not a "working condition" within the meaning of the statute. Plaintiff relies in part on testimony by Defendant's expert in the field of job evaluation that time of day worked is considered a wage condition, not a working condition. (3 N.T. 207, 211-212) Plaintiff also relies on the fact that the criteria evaluated under the job evaluation plans used by Defendant did not include time of day worked, and on selected legislative history. Defendant, on the other hand, points to Murphy v. Miller Brewing Company, 307 F.Supp. 829, 835 (E.D. Wisc. 1969) where the Court stated that

"(i)t is not subject to serious dispute that there is some difference in *working conditions* between the first,

> second, and third shifts merely because the work is performed at different times of the day." (Emphasis supplied).

In addition, Defendant too relies on legislative history to support its position. In my view, time of day worked is a working condition within the meaning of 29 U.S.C. Section 206(d)(1).[2] As Defendant's expert testified, night work has a significant sociological, psychological and physiological impact on most workers.[3] It is a condition of employment which can affect an employee's work more than disagreeable surroundings or exposure to hazard. It is a condition under which most people would prefer not to work.

The question remains whether despite the difference in time of day worked, the day and night inspectors worked under working conditions which as a whole were similar. It appears that except for the time of day worked, their working conditions were the same.[4] In my view, a given job performed at night and at day is not performed under similar working conditions even though all other conditions are identical. Working at night is so significant a factor that the totality of the working conditions here were dissimilar; they were not "very much alike" or "alike in substance or essentials."[5] Hence, Plaintiff has failed to prove a violation of 29 U.S.C. Section 206(d)(1).

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[2] *Cf.* 29 C.F.R. Sec. 800.131-132; see also Independent Oil Workers Union, Local 117 v. American Oil Co., 296 F.Supp. 650, 658 (D. Kan. 1969).

[3] See Findings of Fact 13 and 14.

[4] See Findings of Fact 15-17.

[5] Webster's Third New International Dictionary, Unabridged, 1966.

IV. *CONCLUSIONS OF LAW.*

1. This Court has jurisdiction of the parties and subject matter of this action.

2. Plaintiff has the burden of proving for each of the four inspector jobs involved in this case that male and female inspectors labored under similar working conditions but were not paid equal wages for equal work.

3. Work performed on the night shift is not performed under working conditions similar to work performed on the day shifts.

4. Since female inspectors worked on the day shifts and male inspectors worked on the night shift, Plaintiff has not sustained its burden of proof that male and female inspectors labored under similar working conditions.

5. Plaintiff has not proven any violation of 29 U.S.C. Section 206(d)(1).

An order in accordance with this Opinion will be entered.[6]

/s/ MUIR,
MUIR,
United States District Judge.

[Entered: March 30, 1972]

[6] In the event that the Court of Appeals for the Third Circuit should decide that my reasoning is erroneous. I have filed "Supplemental Findings of Fact." These are not necessary to my decision, but might be helpful to that court in reaching an opposite conclusion or might eliminate re-litigation of these issues if the case has to be re-tried.

SUPPLEMENTAL FINDINGS OF FACT OF THE DISTRICT COURT.

UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JAMES D. HODGSON, Secretary of Labor, United States Department of Labor,

Plaintiff,

v.

CORNING GLASS WORKS, a Corporation,

Defendant.

Civil Action No. 69-396.

A. Historical Background

1. Plaintiff claims a violation of the Equal Pay Act only with respect to employees who were hired prior to January 20, 1969. No violation is claimed at this time with respect to employees hired subsequent to January 20, 1969. (Stip. of Fact 121)

2. The steady night inspection jobs were created between 1925 and 1930 because of the introduction of automatic production equipment which made it necessary to inspect ware on all shifts. (Stip. of Fact 10)

3. At the time of the institution of inspection work on the night shift, and until 1947, Pennsylvania law absolutely prohibited the employment of women between the hours of 12:00 p. m. and 6:00 a. m. (Stip. of Fact 15). Thus, men had to be hired for this first night inspection shift.

4. These men were selected from male employees within the plant. (Stip. of Fact 13)

5. These men were paid the individual, personal rates they were already receiving which were higher than the rates being paid to women doing inspection work on the day shift. (Stip. of Fact 13)

6. At the time of the institution of inspection work on the night shift, Corning did not pay shift differentials. (Stip. of Fact 11)

7. During at least part of World War II, women were employed on the steady night shift as inspector-packers. (1 N. T. 203; 3 N. T. 132). There is no evidence that these women did or did not receive the same wages as the male inspector-packers working at night.

8. In 1947, Pennsylvania law was amended to permit women to work at night conditioned upon the approval of the State Department of Labor (Act of May 21, 1947, P. L. 389, Sec. 4). The State regulations provided, among other things, that in order to be permitted to employ women at night an employer was required to furnish transportation where public transportation was not available. (Stip. of Fact 16)

9. Public transportation has not been available in Wellsboro, Pennsylvania. (Stip. of Fact 18)

10. It has not been economically feasible for Corning to furnish transportation to its female employees. (3 N. T. 195-196)

11. In 1944 the American Flint Glass Workers' Union of North America negotiated a collective bargaining agree-

ment covering many production and maintenance employees of Corning Glass Works, Wellsboro plant, including the inspectors who worked on the inspection jobs involved in this case. (Stip. of Fact 21)

12. This contract provided that, for the first time, all employees working a non-rotating night shift would receive a shift differential as a premium for such night work. (Stip. of Facts 22 and 23)

13. In addition to this new "shift differential" applicable to all night workers, this contract continued in effect the existing differential in base rate of pay between the employees on the steady night shift *inspection* jobs and employees on the day and afternoon shift *inspection* jobs. (Stip. of Fact 23)

14. All collective bargaining agreements entered into by Corning with the Union, between the years 1944 and 1969 continued to maintain the differential in base rate between the steady night shift inspection jobs and the day and afternoon shift inspection jobs, except for minor variations caused by the negotiation of percentage rather than flat rate increases. (Stip. of Fact 24)

15. The following jobs were performed exclusively by men on all shifts at least until October 17, 1966:

Job Code	*Job Title*	*Group No.*
1836	Industrial Truck & Equipment Opr.	7
2015	Head Mixer	10
4007	Glass Melting Furnace Operator	11
4031	Optical Reader Forehearth & Lehr Opr.	14
2181	Cng. Rbn. Mch. Operator—Class B	14
2184	Relief Attendant	10

2280	Cng. Rbn. Mch. Operator—Class A	18
1053	Hiker	3
3838	Traying Machine Operator	5
4457	Frost Operator	8
4466	Misc. Frost Operator	9
3608	Opr. Cut & Finishing Machine	9
3716	Ceramic & S & L Operator	9
5711	Sahara Operator	9
5739	Finishing Equipment Mechanic	11
0850	Ind. Truck Driver & checker	8
5728	Shift Maintenance Mechanic	13
6213	Electrician—Class A	16
6214	Electrician—Class B	12
5224	Packing Equipment Operator	7
5287	Attendant Hamper Maker & Sealer	4

(Plaintiff's Exhibit 1, p. 13)

16. With respect to these jobs, the base hourly rate has been the same on all shifts. (Plaintiff's Exhibit 1, p. 13)

17. On July 17, 1965, the State regulations were amended to provide that an employer in a manufacturing establishment could employ women between the hours of 10:00 p. m. and 6:00 a. m. if that employer arranged for adequate transportation for women workers or if prompt public transportation was available or the individual worker had regular private transportation. CCH State Wage and Hour Citator Paragraph 57,849. (Stip. of Fact 17)

18. Beginning on October 16, 1966, Corning has employed women between the hours of 12 midnight and 6:00 a. m. without providing transportation. To the best of Defendant's knowledge, these employees have regular private transportation. (Stip. of Fact 19)

Supplemental Findings of Fact of the District Court.

19. The job of Positioner-Inspector on the night shift was eliminated on September 11, 1966, and since that time it has been performed only on the day shift. (Stip. of Fact 53; cf. Stip. of Fact 45f)

B. Differences Between the Night and Day Inspector Shifts

20. The primary duties of men and women working as Inspector-Packers, Positioner-Inspectors, Frost Light Inspectors and Quality Inspectors do not depend on which shift is being worked. (Stip. of Facts 33, 41, 45d, 46; 1 N. T. 7-8, 128, 143-150, 156-158, 164-193; 2 N. T. 44-65, 86-90, 93-94, 95-98, 103-108, 112-120; 3 N. T. 105-106, 134-136, 139-140, 147-154, 155-185, 189-192, 194)

21. Male inspectors on the steady night shift have performed additional duties requiring substantially greater physical effort, including heavy lifting and pushing, than jobs having the same titles on the day shifts. Only men have performed such duties, and most women could not perform many of these duties. (Stip. of Facts 34, 35, 64; 1 N. T. 170-184, 193, 198; 2 N. T. 104-109, 112-116, 197-213, 215-235; 3 N. T. 104-105, 108, 135-140, 149, 155-164, 168-172; Defendant's Exhibits D1-D85)

22. These duties are not included in the duties of these jobs on the day shifts. (2 N. T. 106-107, 215-216, 226-227).

23. On the day shifts, these duties are usually performed by "Hikers," traditionally males. (Stip. of Fact 66)

24. On October 16, 1966, the maximum base rate of pay for Hikers was higher than for night shift inspectors but

lower than that for day inspectors (excluding shift differentials). (Stip. of Facts 75, 45f, 43, and 37)

25. On the day shifts, male inspectors who are called upon to perform the job of Hiker carry a multiple rate and receive the rate for the job of Hiker when performing the job of Hiker. This is also true of any male inspectors on the night shift with seniority after January 20, 1969, but not of male inspectors on the night shift hired prior to January 20, 1969, who continue to receive their inspection rate even when performing Hiker duties. (Stip. of Fact P-112 at page 24)

26. The heavy aspects of the Hiker job are lightened to the extent necessary by assigning as many men as are needed to accomplish it (2 N. T. 198-203; 3 N. T. 44, 183); by using mechanical aids (2 N. T. 198-202, 226; 3 N. T. 42, 183-184); and by rotating the men between the tiring duties and the lighter duties. (2 N. T. 223)

27. There are approximately the same number of hikers on all shifts. Three to 13 men work as Hikers assisting inspectors on the morning and afternoon shifts. Three to 13 men work as Hikers assisting inspectors on the night shift. (Stip. of Fact 67; 3 N. T. 35)

28. The amount of time male inspectors on the steady night shift spend performing heavy manual labor varies from day to day and from person to person. (Defendant's Exhibits D1-D85)

29. Male inspectors on the night shift have spent about 25 to 30% of their time doing manual labor, heavy and light. (3 N. T. 104-108, 111, 138-139)

30. Some of the time which these male inspectors on the night shift spent performing manual labor was due to an excess of inspectors on that shift. (1 N. T. 189)

31. Although there is a wide variance from day to day and from person to person in the amount of time male inspectors on the night shift spend performing manual labor, they are all always paid at the same base hourly rate (aside from considerations of seniority) without regard to the nature and frequency of their performance of manual labor. (Stip. of Facts 37, 43, 45f)

32. A male inspector on the night shift who at times has been physically unable, due to illness, to perform the heavier aspects of Hiker work has not had his pay reduced. (2 N. T. 93-94)

33. Since October 16, 1966, when women first were permitted to apply for night shift inspector jobs, they have not had to perform manual labor at night. (2 N. T. 235)

34. During interruptions, at times, some inspectors on all shifts are assigned to the reinspection belt. The reassigned female inspectors and some of the reassigned male inspectors on all shifts engage in inspecting and repacking the ware at the belt. The inspection at this belt is primarily for broken bulbs. This is work within the Inspector-Packer job classification. (Stip. of Fact 63)

35. In addition, the female employees who have performed the inspector jobs involved in this case since October 2, 1966, generally have been and are available for and at times have been assigned to other jobs involving a great variety of duties, some of which require greater effort, skill, and responsibility and are performed under different working conditions than their inspector job.

36. Women inspectors are occasionally required to lift boxes weighing 30 pounds or more. (3 N. T. 161)

37. The only differences between the jobs of Quality Inspector and Quality Inspector Nights is that the latter generally (1) make the final decision to withhold glass or let it pass without consulting with a foreman; and (2) set their own machines in case of changeover. (1 N. T. 7-8, 3 N. T. 189-194)

C. Job Evaluation Plans

38. Under the Corning Glass Works (CGW) Plan of job evaluation, which was installed on January 20, 1969, all employees hired after January 20, 1969, are paid the evaluated base wage rate for that job without regard to whether they work at night or during the day or whether they are men or women. (Stip. of Fact 101)

39. From October 20, 1947, to January 17, 1965, Defendant maintained separate rate schedules for males and for females. (Stip. of Fact P-60 at page 21)

40. Until October 16, 1966, Defendant maintained separate seniority lists for males and females. (Stip. of Fact 77)

41. Under the separate rate schedules for men and women, male inspectors working the steady night shift were paid a higher base hourly rate than the day and afternoon female inspectors who performed work rated at the same points by Defendant's SJ&H Plan. (T-20, 21, 60 and 61 to Plaintiff's Exhibit G)

42. The SJ&H plan provided for calculating the basic wage rate for men by converting the total values of the

jobs evaluated under the plan to a rating factor and multiplying the rating factor by the unskilled labor rate of the vicinity for men. The same procedure was followed for calculating the basic wage rates for women except the unskilled labor rate of the vicinity for women was used to obtain the female rate. (Page 13 of Exhibit J to Plaintiff's Exhibit 1)

43. Effective, January 18, 1965, Defendant merged the separate male and female schedules into one revised rate schedule. (Stip. of Fact P-69 at page 22)

44. This merger, however, preserved the differentials in maximum base rate between the male and female inspectors. Some of the subordinate rates were changed very slightly. (Stip. of Facts 37, 43 45f and 49; pages 192-194 of Plaintiff's Exhibit 6)

45. Under the CGW plan, the wage rate is the same on all three shifts and for both sexes for all inspectors hired after January 20, 1969. (Stip. of Fact 102)

D. Effect of the Changes since October 16, 1966, on Wages Paid to Inspectors

46. Women must wait for vacancies in night shift jobs to occur unless they bump into such jobs in the event of a reduction in force. (Stip. of Fact 44)

47. In the event of a force reduction in a particular job, employees on the job for less than 84 days are dismissed first from that job, in order of plantwide seniority. (Stip. of Fact P-83 at page 22)

48. Beginning October 16, 1966, a number of female employees have availed themselves of the opportunity to

take the higher-paying night shift inspection jobs. (Stip. of Facts 80 and 88)

49. Several females who were first hired on March 14, 1967, immediately began work as Inspector-Packers on the steady night shift that same night. (4 N. T. 10-11)

50. A male who was hired on September 20, 1966, began work as a Frost Light Inspector on the steady night shift on June 10, 1967. (4 N. T. 12)

51. Another male, hired on May 9, 1966, began work as a Quality Inspector on the steady night shift on March 31, 1967. (4 N. T. 12)

52. All qualified employees of the Wellsboro plant who had greater seniority than the employees listed in the previous three paragraphs could have claimed the steady night shift inspection jobs on the dates those employees began work on those jobs. (4 N. T. 13-16)

53. Since 1944 every collective bargaining agreement has contained Article 15, section 2, which provides:

> "When job evaluation • • • results in wage brackets lower than prevailing rates then paid for the job it is not the intention of the company to reduce the prevailing base rates of employees currently working on such jobs." (Stipulation 108)

54. Paragraph 9 of Schedule A of the installation rules of the CGW Plan provides:

> "Any employee who as of the date of the installation of the CGW Hourly Job Evaluation Plan is an employee of the Wellsboro plant covered by the terms of the Basic Agreement and who thereafter by operation

of rights under the Basic Agreement continues to hold or takes any of the jobs specified on the (night) shift shall receive the rate which he or she would have received for that work under pre-existing practices. Those jobs being:

Inspector-Packer (N)
Positioner-Inspector (N)
Frost Light Inspector (N)
Quality Inspector (N)

Persons who become employees after the date of installation shall be paid the evaluated rate when they perform work on any of the evaluated jobs." (Stipulation 109)

55. The rates paid under paragraph 9 of Schedule A are called "red-circle" rates by Corning. (Stipulation 111)

56. Because of these "red-circle" rates, all inspectors (male and female) employed before January 20, 1969 working on the steady night shift receive a higher base wage rate than their counterparts of comparable seniority working on the day shifts. (Stip. of Facts 103, 104)

57. This "red-circle" rate will not be paid to employees hired after January 20, 1969. (Stip. of Facts 113)

58. Since October 16, 1966, a few male inspectors have taken day and afternoon inspection jobs with concomitant reduced base hourly rate. (Stip of Facts 117, 73, 37, 43, 45f and 49)

E. Wilfullness

59. At least since May 4, 1964, Defendant has been aware of the Equal Pay Act because on that date, one of Defendant's attorneys advised Wellsboro officials of the Act and its implications, and told them to refer any possible violations to officials in Corning, New York. (Stip. of Fact P-6 at page 5)

60. On January 24, 1966, Corning was advised by an investigator for the Department of Labor that Defendant was in violation of the Equal Pay Act at its main plant in Corning, New York, in that female inspectors on the day shifts were being paid lower base hourly rates than their male counterparts on the night shift. The investigator stated that the Department's position was that the base hourly rates of the women should be raised to that of the men and restitution paid. (Stip. of Fact P-11 at page 6)

/s/ MALCOLM MUIR,
United States District Judge.

Dated: March 30, 1972

JUDGMENT OF THE DISTRICT COURT.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

JAMES D. HODGSON, Secretary of Labor, United States Department of Labor,

Plaintiff,

v.

CORNING GLASS WORKS, a Corporation,

Defendant.

Civil Action No. 69-396.

ORDER

Judgment is hereby entered in favor of Defendant and against Plaintiff. Plaintiff's request for an injunction enjoining alleged violations of Sections 15(a) (1) and 15(a) (2) of the Fair Labor Standards Act of 1938, as amended, 52 Stat. 1060, 29 U.S.C. Sections 201-219, and for withholding of payment of wages allegedly due Defendant's employees under the Act, is hereby denied.

/s/ MUIR,
United States District Judge.

[Entered, March 30, 1972]

OPINION OF THE COURT OF APPEALS.

(Filed Jun. 28, 1973.)

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 72-1590.

PETER BRENNAN, Secretary of Labor, United States Department of Labor,

Appellant,

v.

CORNING GLASS WORKS, a corporation,

Appellee.

On Appeal from the United States District Court for the Middle District of Pennsylvania
(D. C. Civil No. 69-396).

Argued Monday, May 21, 1973.

Before: KALODNER, ALDISERT and ADAMS,
Circuit Judges.

Richard F. Schubert,
Solicitor of Labor,
Carin Ann Clauss,
Associate Solicitor,
Donald S. Shire,
Helen W. Judd,
Isabelle R. Cappello,
Attorneys,
U. S. Department of Labor,
Washington, D. C.
Sylvia S. Ellison,
Attorney,
Louis Weiner,
Regional Solicitor.

Scott F. Zimmerman,
Walter P. DeForest,
Reed Smith Shaw & McClay,
Pittsburgh, Penna. 15219,
Robert F. Cox,
Cox, Wilcox, Owlett & Lewis,
Wellsboro, Penna. 16901,
Counsel for Appellee,
Corning Glass Works.

ADAMS, *Circuit Judge:*

This action was commenced by the Secretary of Labor to enjoin claimed violations of the equal pay provisions of the Fair Labor Standards Act[1] and to restrain the withholding of wages allegedly due certain female employees. The broad issue presented for the Court's judgment is whether Corning Glass Works engaged in wage discrimination violative of the Equal Pay Act[2] by paying more to *night* inspectors than to *day* inspectors at its Wellsboro, Pennsylvania plant.

The basic factual pattern involved in this case implicates the Equal Pay Act because, for reasons that will be fully explained, *infra,* before October 16, 1966, night inspection work was performed exclusively by males and day

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[1] 29 U.S.C. § 201 *et seq.*

[2] The equal pay provisions were added to the Fair Labor Standards Act as an amendment to § 6(d) of the Act. Enacted by Congress in 1963 to correct certain conditions considered contrary to the country's interest, the Equal Pay Act provides, in relevant part:

> No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or equality of production; or (iv) a differential based on any other factor other than sex: *Provided,* That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

29 U.S.C. § 206(d) (1).

inspection work largely by females. Thus, the Secretary asserts, in essence, that Corning paid male night inspectors more than female day inspectors for "equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions. . . ."[3] the district court disagreed, and the case is now here on appeal.

I.

The pay practices at the heart of this controversy developed over a period spanning more than forty-five years. Before 1925, Corning operated its Wellsboro Plant only during the day, finding it either unnecessary or undesirable to employ a night shift. All inspection work at that time was performed by women. The introduction of automated production equipment between 1925 and 1930, however, made it necessary or desirable for the first time to use night shifts.

Until 1947, Pennsylvania law absolutely prohibited the employment of women between the hours of midnight and 6:00 A.M.,[4] and thus, in order to fill inspector positions on the new steady night shift, Corning had to hire men. These night inspectors, selected from male employees within the plant, were paid for their night inspection work the individual rates they had previously been receiving. Such wages were higher than the rates paid to women engaged as inspectors on the day shift. A situation thus developed in which male inspectors worked at night, female

[3] 29 U.S.C. § 206(d) (1).

[4] Act of July 25, 1913, P. L. 1024.

inspectors during the day, and the male employees were paid at higher rates.[5]

This wage differential was reinforced when, in 1944, the American Flint Glass Workers' Union organized the production and maintenance employees of Corning's Wellsboro Plant and negotiated a collective bargaining agreement providing, for the first time, a plant-wide night shift differential. Despite this new *shift* differential, serving as a premium for night work, the pre-existing *wage* difference between night shift inspectors and day shift inspectors continued in effect.[6]

In 1947, Pennsylvania law was amended to permit women to work at night conditioned upon the approval of the State Department of Labor.[7] Under the applicable regulations, however, Corning could have employed women at night only if it would provide them transportation or if Wellsboro had public transportation. It was not economically feasible for Corning to furnish transportation to its female employees, and public transportation was unavailable. The 1947 state regulations were later amended in July, 1965 to permit night work for those women who had regular, private transportation.[8]

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[5] After installation of the Stevenson, Jordon & Harrison wage evaluation plan in 1947, for example, the resulting wage differentials between the night and day shifts amounted to a high of 19 cents an hour, in addition to the shift differential of 4 cents an hour for the afternoon shift and 10 cents an hour for the night shift. By 1966, the highest base wage differential was 22½ cents an hour.

[6] See note 5, *supra*.

[7] Act of May 21, 1947, P. L. 389, § 4.

[8] CCH State Wage and Hour Citator ¶57,849.

Since October 16, 1966, by mutual agreement between the union and Corning, women have been permitted to exercise their seniority, on the same basis as men, to claim steady night shift jobs when vacancies occur.[9] A considerable number of female employees have availed themselves of this opportunity to take the higher-paying night shift inspection jobs.[10] In addition, several new female employees, as well as a new male employee, have been hired to work as night inspectors.[11]

Thus, after October 16, 1966, female and male employees worked as inspectors on both the day and night shifts.

Male and female inspectors working the same shift have been and are paid at the same base hourly rate. Moreover, under the Corning Glass Works Plan of job evaluation installed on January 20, 1969, all employees hired *after* that date are paid the base wage rate for their job regardless of their sex or whether they work on the day or night shifts. The Corning Plan also provides for a "red circle" rate paid to persons employed *before* January 20, 1969, when working as night inspectors. Thus, all inspectors, male or female, who were employed before the date of the Corning

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[9] They may also "bump" into such jobs during periods when the work force is being reduced.

[10] The parties stipulated that women filled 276 out of 395 openings on night inspection jobs between October 16, 1966 and June, 1970. Each of the 45 inspector jobs thus became available approximately 8 times during this four year period. No contention has been advanced that in filling these jobs Corning discriminated on the basis of sex.

[11] Several females just hired on March 14, 1967 immediately began inspection work on the steady night shift. In addition, some very junior male employees took steady night work. All qualified employees having greater seniority, whether male or female, could have claimed this work.

Plan and who work on the steady night shift receive a higher base wage rate ("red circle") than their counterparts, male or female, of comparable seniority, working on the day shifts.

II.

After finding the relevant facts, which were largely undisputed, and in any event mostly stipulated by the parties,[12] the district court held that the Secretary of Labor had not established that Corning violated the Equal Pay Act because he had "failed to sustain its burden of proof that the male inspectors on the night shift and the female inspectors on the day shift performed their work 'under similar working conditions,'" within the meaning of that phrase under the Equal Pay Act. The district court reasoned that "time of day worked is a working condition," and that "night work has a significant sociological, psychological and physiological impact on most workers."

Urging reversal of the district court's judgment, the Secretary contends primarily that: (1) in view of the legislative history of the Equal Pay Act and controlling judicial precedents, shift differences are not properly classified as "working conditions" under the statute's equal work standards; and (2) the work performed by men and women is "substantially" equal.

Needless to say, Corning disagrees with the Secretary's arguments as to "working conditions" in every respect. Moreover, the company seeks affirmance of the judgment of the district court on a number of additional, alternative

[12] The parties entered into more than 100 stipulations.

grounds: (a) if shift differentials are not "working conditions," within the meaning of the Act, they represent a "factor other than sex" upon which wage differentials may legally be based; (b) even assuming a prior violation of the equal pay provisions, Corning achieved compliance with the Act by opening all inspection jobs to both sexes in October, 1966; and (c) its allegedly unlawful conduct occurred prior to the period of the statute of limitations and cannot make illegal action within the period of the statute that is otherwise legal.

III.

Initially, the Court must determine whether the day and night inspection jobs constitute "equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions." Upon this issue the Secretary carries the burden of proof,[13] and in determining whether the district court erred in concluding that such burden was not met, we must keep in mind that the Equal Pay Act does not contemplate that the Secretary of Labor and the courts will engage in job evaluation for the purpose of deciding what is a proper wage differential for unequal work.[14]

Once the Secretary has met his burden of showing equal skill, effort, responsibility, and similar working conditions,

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[13] *E.g.*, Hodgson v. Corning Glass Works, 474 F. 2d 226, 231 (2d Cir. 1973); Schultz v. American Can Co., 424 F. 2d 356, 360 (8th Cir. 1970).

[14] *See* 109 Cong. Rec. 9197-98, 9209 (1965). Indeed, in view of the exceptions to the Act, it is clear that "Congress thus intended to allow [certain] wage differentials even though the contrasted employers (*sic*) were performing equal work." Hodgson v. Robert Hall Clothes, Inc., 473 F. 2d 589, 594 (3d Cir. 1973).

the employer, in order to prevail on the merits, must demonstrate that the wage differential is made "pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex . . . ."[15]

The basic issue over which the parties have waged their legal battle is whether time of day worked may properly be classified as a "working condition" within the meaning of the Act. Here, the district court held that steady night work is not performed under "working conditions" similar to day work. However, the Second Circuit recently concluded in Hodgson v. Corning Glass Works,[16] a case remarkably similar to the present one, that, in view of the legislative history of the Act, time of day worked may be used by an employer to justify claimed wage discrimination only as "a differential based on any other factor other than sex," but does not constitute a "working condition" so as to make the Act altogether inapplicable.

Writing for the court in *Hodgson,* Chief Judge Friendly, in concluding that a night shift is not a "working condition," relied in no small part[17] upon the following statement from the Committee Report:

> "Three specific exceptions and one broad general exception are also listed. It is the intent of this committee that any discrimination based upon any of these exceptions shall be exempted from the operation

[15] 29 U.S.C. § 201(d) (1).

[16] 474 F. 2d 226 (2d Cir. 1973).

[17] *Id.* at 232.

> of this statute. As it is impossible to list each and every exception, the broad general exclusion has been also included. Thus, among other things, shift differentials based on time of day worked, hours of work, lifting or moving heavy objects, differences based on experience, training or ability would also be excluded . . . ."[18]

In quoting this statement, the Second Circuit opinion interlineated the words "differentials based on any other factor other than sex" in brackets after the words the "broad general exclusion" in the next to last sentence in the quoted paragraph, thus revealing its belief that a "factor other than sex" is the "broad general exclusion" referred to by the Committee.[19] Although, in view of the context and language of the quoted statement, Chief Judge Friendly's interpretation would appear to be correct, we do not conclude, as the Second Circuit apparently did, that the last sentence in the quoted paragraph, beginning with the word "Thus," should therefore be construed as listing only examples of a "factor other than sex."

The specific examples that the Committee Report, in the last sentence, states would be excluded are "shift differentials, restrictions on or differences based on time of day worked, hours of work, lifting or moving heavy objects, differences based on experience, training, or ability . . . ."[20]

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[18] 109 Cong. Rec. 9210 (1963), U. S. Code Cong. & Admin. News, p. 689.

[19] 474 F. 2d at 232: "'As it is impossible to list each and every exception, the broad general exclusion ["differentials based on any other factor other than sex"] has been also included.'"

[20] 109 Cong. Rec. 9210 (1963).

As a group, these examples cannot be interpreted as "factor[s] other than sex" for the simple reason that some of them clearly represent requisites to the applicability of the Act: skill, effort, responsibility, and working conditions. Thus, "lifting or moving heavy objects" is, beyond dispute, an example of "effort," and "experience, training, or ability" are examples of "skill." And "effort" and "skill," along with "working conditions" and "responsibility," are specifically listed requisites that would make the Equal Pay Act altogether inapplicable, and which cannot, therefore, logically be classified as "factor[s] other than sex"[21] to be considered as matters of defense.

Of course, our interpretation of the Committee Report—that the examples set forth are not *all* "factor[s] other than sex"—does not by itself suggest the converse—that they are *all* examples of "skill, effort, and responsibility, and . . . working conditions." Thus, the listing made by the Committee Report may in fact be not simply a set of black-or-white illustrations taken exclusively from the Act's requisites (*i.e.*, effort, skill, responsibility, and working conditions) or solely from one of its defenses ("factor[s] other than sex"), but rather a chiaroscuro picture painted with brushes dabbed in both groups. The question, therefore, remains whether time of day worked is a "working condition" or a "factor other than sex."

The only clear and unambiguous evidence concerning this point is the following statement made during the course of an explanation of the Act by Congressman Goodell, who sponsored the bill and participated in redrafting it:

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[21] 29 U.S.C. § 206(d) (1).

"Ninth. Although only the factors, skill, effort, responsibility, and working conditions are listed, such things as experience, ability, and training may be considered under the broad heading of skill. The usual factors of push, pull, lift, and carry come under effort. Direction of others as well as value of commodity worked upon and overall importance of assignment may be considered as part of an employees' job responsibility. *Finally, standing as opposed to sitting, pleasantness or unpleasantness of surroundings, periodic rest periods, hours of work, difference in shift, all would logically fall within the working condition factor.*" (Emphasis supplied)[22]

Because of its interpretation of the Committee Report, the Second Circuit discounted this explanation by Congressman Goodell,[23] although it was made by the bill's sponsor immediately before reading the Committee Report into the Congressional Record. In addition, it was proclaimed by Congressman Goodell as an example and guideline as to the intent of Congress. Whatever may be the merits of minimizing the views of a bill's sponsor when a Committee Report is thought to be clear and contrary to the statements of individual legislators,[24] this Court's interpretation of the Committee Report suggests no basic

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[22] 109 Cong. Rec. 9209 (1963).

[23] 474 F. 2d at 232.

[24] *See* Zuber v. Allen, 396 U. S. 168, 186 (1969); United States v. O'Brien, 391 U. S. 367, 385 (1967), involving situations of *conflict* between Committee reports and statements of legislators. *Cf.* American Airlines, Inc. v. C. A. B., 365 F. 2d 939, 949 (D. C. Cir. 1966).

conflict between the Report and Congressman Goodell's statements. A comparison of the two demonstrates this:

Committee Report:	Congressman Goodell:
"Thus, among other things, shift differentials, restrictions on or differences based on time of day worked . . . would also be excluded . . ."	"Ninth . . . Finally . . . hours of work, differences in shift all would logically fall within the *working condition* factor." (emphasis supplied)
"Thus, among other things . . . lifting or moving heavy objects . . . would also be excluded."	"Ninth . . . The usual factors of push, pull, lift, and carry come under *effort* . . ." (emphasis supplied)
"Thus, among other things . . . differences based on experience, training or ability would also be excluded."	"Ninth . . . such things as experience, ability, and training may be considered under the broad heading of skill . . . ." (emphasis supplied)

Under these circumstances, where the ambiguous Committee Report and the statements by the sponsor of the legislation may reasonably be read not as conflicting but as complimentary and harmonious, giving emphasis to Congressman Goodell's explanation would not appear inappropriate. Indeed, a sponsor's views are entitled to

great weight in any event.[25] As this Court stated in Gartner v. Soloner:[26]

> "In attempting to extract the legislative purpose primary concern should always be given to the views expressed by the sponsors of the bill and in this respect the statements of Senator McClellan and Rep. Elliott should be looked to as representing the true spirit of Section 102."

We conclude, then, that time of day worked is a "working condition" within the meaning of the Equal Pay Act and not merely a "factor other than sex" to be used by an employer as a matter of defense.[27]

Therefore, in the circumstances of this case, the statute is inapplicable. Because of this conclusion, we need not and do not decide Corning's other contentions, urged to support affirmance of the district court's judgment.[28]

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[25] *See, e.g.,* National Woodwork Mfgs. Assn. v. N. L. R. B., 386 U. S. 612 (1967); Schwegmann Bros. v. Calvert Corp., 341 U. S. 384, 394 (1951); Pan American World Airways, Inc. v. C. A. B., 380 F. 2d 770, 782 (2d Cir. 1967), *aff'd,* 391 U. S. 461 (1968). It should be noted that this Court has already given weight to Representative Goodell's views concerning the Equal Pay Act. *See* Hodgson v. Robert Hall Clothes, Inc., 473 F. 2d 589, 595 (3d Cir. 1973).

[26] 384 F. 2d 348, 353 (3d Cir. 1967), *cert. denied,* 390 U. S. 1040 (1968).

[27] The Wage and Hour Administrator's regulations agree with the Second Circuit's treatment of time of day worked as a "factor other than sex" and not a "working condition," 29 C. F. R. §§ 800.100, 800.145. Although such administrative interpretations are entitled to some deference, we cannot pay such homage to them so as to blind ourselves to the meaning of the legislative history as we read it.

[28] For example, we need not address attention to Corning's assertion that the actual work performed by night inspectors and day inspectors is essentially equal in terms of skill, effort, and responsibility, *see* Shultz v. Wheaton Glass Co., 421 F. 2d 259 (3d Cir.), *cert. denied,* 398 U. S. 905 (1970), since, as we hold, the night inspectors and the day inspectors were not working "under similar working conditions."

IV.

Recognizing that the pursuit of intent and meaning in the words of congressional committees and individual legislators may seem to some like exploring a quagmire or, perhaps, fathoming a mirage, we have been cautious against injecting whatever notions of public policy we might have into the interstices of the Equal Pay Act. Congress was careful not to make the equal pay provisions a "Bali Hai," inviting either the Secretary of Labor or the courts to substitute their judgment for that of employers or to judge the merits of job systems. Rather, our task is merely to determine whether an employer has discriminated on the basis of sex by paying different wages "for equal work on jobs, the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions . . ."

In terms of congressional intent, we cannot say that the district court erred in concluding that "a given job performed [by some at night and others during the day] is not performed under similar working conditions even though all other conditions are identical. Working at night is so significant a factor that the totality of the working conditions here were dissimilar; they were not 'very much alike' or 'alike in substance or essentials.'"

The judgment of the district court will be affirmed.

To the Clerk:

Please file the foregoing opinion.

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Circuit Judge

[Filed, June 28, 1973]

JUDGMENT OF THE COURT OF APPEALS.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

PETER BRENNAN, Secretary of Labor, United States Department of Labor,

Appellant,

vs.

CORNING GLASS WORKS, a corporation.

No. 72-1590.

(D. C. Civil Action No. 69-396.)

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Present: KALODNER, ALDISERT and ADAMS,
Circuit Judges.

JUDGMENT

This cause came on to be heard on the record from the United States District Court for the Middle District of Pennsylvania and was argued by counsel.

On consideration whereof, it is now here ordered and adjudged by this Court that the judgment of the said District Court, filed March 31, 1972, be, and the same is hereby affirmed, with costs taxed against appellant.

ATTEST:

s/ THOMAS P. QUINN,
Clerk.

June 28, 1973.

ORDER ALLOWING CERTIORARI.

(Filed December 17, 1973.)

SUPREME COURT OF THE UNITED STATES

No. 73-695

PETER J. BRENNAN, Secretary of Labor,
Petitioner,

v.

CORNING GLASS WORKS.

ORDER ALLOWING CERTIORARI. Filed December 17, 1973. The petition herein for a writ of certiorari to the United States Court of Appeals for the Third Circuit is granted. The case is consolidated with No. 73-29 and a total of one hour is allotted for oral argument.